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ARD SUGAR RESOLUTION

HEARINGS

BEFORE THE

OMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

SECOND SESSION

P47-12

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, FIRST SESSION.

GILBERT N. HAUGEN, Iowa, *Chairman*.

JAMES C. McLAUGHLIN, Michigan.

CHARLES B. WARD, New York.

FRED S. PURNELL, Indiana.

EDWARD VOIGT, Wisconsin.

M. O. McLAUGHLIN, Nebraska.

CARL W. RIDDICK, Montana.

J. N. TINCHER, Kansas.

T. S. WILLIAMS, Illinois.

J. H. SINCLAIR, North Dakota.

EDW. D. HAYS, Missouri.

CHARLES J. THOMPSON, Ohio.

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H. M. JACOWAY, Arkansas.

JOHN W. RAINEY, Illinois.

JAMES B. ASWELL, Louisiana.

DAVID H. KINCHELOE, Kentucky.

MARVIN JONES, Texas.

PETER G. TEN EYCK, New York.

L. G. HAUGEN, *Clerk*.

WARD SUGAR RESOLUTION.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Tuesday October 25, 1921.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. Gentlemen, the committee has met this morning for the purpose of considering H. J. Res. 78, authorizing the President to require the United States Sugar Equalization Board (Inc.) to take over and dispose of 13,902 tons of sugar imported from the Argentine Republic.

Mr. TINCHER. Mr. Chairman, I do not suppose there is any possibility of getting this bill passed at this special session, even if it is reported out, and there are two Members of this committee absent; one of them, Mr. Hays, has been in the hospital for some time and has just recently been taken home, where he is recovering. He is very much interested in this proposition. Mr. Sinclair is at home, I think, in a legitimate cause on account of a recall election that is taking place there. I think the hearing ought therefore to go over. I understand the Attorney General is not in town, and I also understand that the Department of State has not furnished the documents requested of them. They have decided on their own initiative that they are unnecessary. If the Attorney General does not appear before the committee, as I understand it, although I do not know that I understand it correctly, you gentlemen have closed your case except that I have a date with Mr. Franklin for a few hours. I think Mr. Hays and Mr. Sinclair have a right to be here, and I would like to have the hearings go over at least a week until they can be here. Mr. Sinclair will be here then and Mr. Hays will be out the latter part of the week.

Mr. CLARKE. I think we have had all the information about this matter, and it is unfair to bring these gentlemen continually down here, and if one member is called away or is necessarily absent this week, some other member will be away next week, and I do not think it is fair to keep continuing the matter.

Mr. TINCHER. When the matter was on the floor before I was criticized by the leaders of the party for not having any information, and I am not quite sure we have not very full information yet; I know we have not.

Mr. WARD. We have all the information that can possibly be obtained.

Mr. CLARKE. I think so.

Mr. TINCHER. I know I have some information that is not in the record, quite considerable, that I hope to put in when I examine Mr. Franklin, and that will take some little time, and I had hoped for a full attendance of the committee, unless there is some real reason for hurrying this thing when they are not here; and we also have an understanding with Mr. Daugherty that after he investigates this matter he will come back before the committee. I do not know whether they have any authority or not, but the committee called for certain documents from the Secretary of State's office, and some one up there has decided that we do not need them.

Mr. WARD. Read the letter from the Secretary of State's office.

Mr. CLARKE. Let us continue with the examination here and these men can get the information you want on the matter.

Mr. McLAUGHLIN of Michigan. Have we a communication from the Secretary of State's office?

The CHAIRMAN. Yes.

Mr. McLAUGHLIN of Michigan. I suggest that the communication be read. (The clerk read as follows:)

STATE DEPARTMENT.
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9 referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date, it is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,
Sincerely, yours,

CHARLES E. HUGHES.

Mr. RIDDICK. Was that evidence brought before this committee or the Senate committee?

The CHAIRMAN. Before this committee. All the papers were here.

Mr. TINCHER. A young man came down here from the department and brought certain papers, and as a result the committee voted to ask the Department of State to send the entire file on this subject down here so that we might peruse it. I have some information that leads me to think we want to see the entire file. I am perfectly ready, so far as I am concerned, to go ahead with the examination of Mr. Franklin.

Mr. CLARKE (interposing). Then let us proceed.

Mr. TINCHER. But there are some men who have some rights on this committee and one of them is sick, but will be out the last of the week. The other is unavoidably away from town. This is not a killing matter. These gentlemen can surely be here next Tuesday or next Monday, and I make a motion, Mr. Chairman, that if we are to proceed with it at this special session we recess until next Tuesday at 10 o'clock, and I do that on the theory you want to proceed at this session so as to give these men a chance to attend the meeting.

The CHAIRMAN. You have heard the motion. Are you ready for the question?

Mr. WARD. The idea is to get a bill reported out of the committee at this session.

Mr. TINCHER. I want it reported out; that is, if the members want to do that; but I want to give the members a fair chance to be here at the hearings, and I know Mr. Hays, who is sick and has been in the hospital for about three weeks and has just been taken home, has taken a lot of interest in this proposition.

Mr. JONES. There is another member, Mr. Kincheloe, who is very anxious to attend any hearings, and who is compelled to go home this week. If he has not already gone, he is going right away.

Mr. WARD. He is going away to-morrow.

Mr. McLAUGHLIN of Michigan. Mr. Tinchler, Mr. Franklin is here and you say your examination of him will take considerable time. Why not go on with his examination and have it put in the record and printed and then everybody can read it?

Mr. TINCHER. I will be candid with you in reference to Mr. Hays. I have a lot of information here about this matter that Mr. Hays helped to procure and I think he ought to be here. He may want to ask some questions, and I do not think it is fair to him, inasmuch as he is sick and this is not a life or death matter. He has taken as much interest as any member of the committee in this matter.

Mr. McLAUGHLIN of Michigan. It just strikes me that there are two things we can take up now properly, your examination of Mr. Franklin, and you say you have information or data that leads you to believe there is something in the State Department we ought to see. Let us know what that is, and maybe we can devise some means to get it, or provide for an inspection of it at least, if the department does not wish to have it leave the department.

Mr. TINCHER. I have stated my reason, Mr. Chairman, and made a motion that we adjourn until next Tuesday.

Mr. JACOWAY. Mr. Chairman, I would like to ask a question for information. It is my understanding that the present Attorney General of the United States is coming before the committee to give his legal opinion as to the merits of this claim.

The CHAIRMAN. We might read the letter from the Attorney General.

Mr. JACOWAY (continuing). And before he comes he wants the entire record laid before him, and that was a condition precedent to his coming before the

committee. Now, the question I want to ask is that, has the record, as requested by Mr. Daugherty, been presented to Mr. Daugherty so he will know all about the merits of the claim before he comes and gives his opinion?

The CHAIRMAN. The clerk will read the letter from the Attorney General. (The clerk read as follows:)

DEPARTMENT OF JUSTICE,
OFFICE OF THE PRIVATE SECRETARY,
Washington, October 22, 1921.

HON. GILBERT N. HAUGEN,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: In the absence of the Attorney General, I beg to acknowledge your letter to him of the 20th, inclosing copies of the reports of hearings on sugar (H. J. Res. 78), and advise you that the same will be brought to his attention as soon as possible after his return.

Thanking you, I am,
Yours, very truly,

W. F. GIBBS, *Private Secretary.*

MR. JACOWAY. Mr. Chairman. in order to facilitate the matter, if it is in order, I move that a committee of three members be appointed to wait upon the Attorney General and ask if there is any additional record he wants before he can make up his mind as to the status of this claim, because he can not come before us until he knows the entire facts.

MR. ASWELL. Why not have the chairman ask him about that?

MR. JACOWAY. I dare say every member of this committee is going to be influenced by Mr. Daugherty's opinion in regard to the matter; and if the entire record is not before him, I think it ought to be before him, and this is the only avenue we have for getting the testimony before him; and, if the motion is not out of order, I make that as a motion.

The CHAIRMAN. Do you withhold your motion, Mr. Tinchler?

MR. TINCHER. Yes; I gladly withhold it for that purpose.

MR. RIDDICK. I would like to amend the motion in order to provide that the chairman communicate with the Attorney General.

MR. JACOWAY. That is entirely satisfactory to me.

MR. KINCHELOE. Mr. Chairman, I just got in here. Have you a motion pending?

MR. TINCHER. My motion was that we recess until next Tuesday, on account of the absence of two members, one of whom has been confined to home and in the hospital by sickness for some time.

MR. KINCHELOE. I would just like to make this observation before any of the motions are voted upon, if the chairman of the committee will indulge me: Personally—although this is not what I arose to say—I have got to leave here to-morrow, and will be gone until after the November election; but my own opinion is that I do not think that you are going to get the Attorney General here now with this railroad strike pending. His mind, of course, will be absorbed with that proposition, which is a serious proposition, and I notice that he has summoned various United States district attorneys here in conference from all over the country. My guess is he will not think about this proposition at the present time, and I do not blame him for that. It is very patent there is not going to be any of our bills passed upon that we may report or may have reported before the December session.

I do not know how other members of the committee feel about the hearings, but personally I am ready to go on and attend these hearings and hear everybody who wants to be heard. I think we ought to do that, but I think we should have these hearings just as close to the consideration of the bills as possible, because I know that every member of the committee is busy, and I do not like the idea of coming here and giving my attention to these matters and trying to digest them and then, after a lapse of time, the bill comes up and then I have to go back to the hearings and read them again and refresh my memory about the entire proposition. In view of that fact I do not see where we make much progress in going on with hearings here when we know the bills we are considering are not coming up before the House. That is the way I feel about it myself, and that applies not only to this legislation but to all the rest of it. I do not mean to specify just this bill.

MR. TINCHER. Mr. Chairman, Mr. Ward has suggested that he can not be here until the 10th of November, so that I will amend my motion to make it the 11th of November.

Mr. GERNERD. That is Armistice Day, and you do not want to have anything of this sort during that week. Let us have a little vacation during that week.

Mr. TINCHER. Yes; what we ought to do is to put this down as the first hearing after the regular meeting of Congress.

Mr. CLARKE. It seems to me that these men have been summoned down here for a definite hearing, and I do not know of any reason why time after time the matter should be adjourned for one reason or another. I agree with Mr. Kincheloe's observations; I do not believe there will be any action so far as this Congress is concerned, but as a matter of common honesty and fair dealing with these sugar men I think we ought to appoint a certain day, and if our members can not be here, we ought to go right ahead with it.

Mr. McLAUGHLIN of Nebraska. Mr. Chairman, I am wondering if there have been very many times when this matter has been adjourned. Of course we had quite an extensive hearing on this resolution. Have there been many times when these gentlemen have been called down here and have not been permitted to proceed; you say "time after time."

Mr. CLARKE. Two or three times at least. At one time I was away when a bill was up which concerned me more, perhaps, than it concerned any man around this table, unless it be Mr. Voight. That was in reference to the filled-milk bill. I was away, and I was given no particular consideration except the chairman notified us by wire that we could include our vote on that bill by wire. The matter was not adjourned because I was not here, and yet I come from the greatest dairy-producing center in the United States.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I move to amend Mr. Tinchler's motion to the effect we take this matter up the first thing after the convening of the December session.

Mr. JONES. I second that motion.

The CHAIRMAN. Will the committee dispose of the other motion first?

Mr. RIDDICK. I will withdraw my amendment to that motion.

The CHAIRMAN. Are you ready for Mr. Jacoway's motion?

Mr. McLAUGHLIN of Michigan. What is your motion, Mr. Jacoway?

Mr. JACOWAY. My motion was that a committee of three be appointed to wait upon the Attorney General of the United States and ask if the record he now has before him is complete or whether there is any additional information he desires in order to inform himself before he comes before the committee to tell them of the equity of this matter.

That is a condition precedent that has to be complied with before we will get anywhere, because I know there are members of the committee who want the opinion of the Attorney General.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I think inasmuch as we have asked the Attorney General to come here and he has come and talked to us and we have asked for his opinion, we ought to wait for his opinion before taking final action, and I think it is entirely proper for the chairman or some one else on behalf of the committee to communicate with him and find out what his convenience will be with reference to giving his opinion and what information he wants in order to enable him to form an opinion; but I do not think it is necessary now to delay the hearing until that time. These men are here and we rarely have a larger attendance than we have to-day.

Mr. JACOWAY. I do not mean this to interfere with any additional testimony we want to take, but I know that that is a matter that has to be complied with before we get his opinion. Let the other matter go on just as the committee wishes.

Mr. McLAUGHLIN of Michigan. Some course of that kind ought to be pursued, and I have no objection whatever to your motion.

Mr. JACOWAY. I want to include in that motion that the chairman be a member of the committee.

(The motion of Mr. Jacoway, having been duly seconded, prevailed.)

Mr. McLAUGHLIN of Michigan. Now, it might be proper for me to express my opinion. I think we can go along now with the hearings. Some of the gentlemen are here and we could have a record made of what they have to say and save time. We rarely have a larger attendance than we have now, and we are not doing very much in the House, and it seems to me we ought to take this time to hear these men, and, in my judgment, there ought not to be the delay that is suggested by the motion if it will preclude us from taking the testimony of the gentlemen who are now here.

Mr. RIDDICK. I am wondering, Mr. Tincher, whether some of the evidence produced to-day might be of value to the Attorney General in forming his opinion?

Mr. TINCHER. I have told my reasons why I did not want to go ahead now, and that is because I worked with Mr. Hays during the vacation of Congress in getting some facts together, and Mr. Hays is now sick. He is a good attendant on the committee when he is well, and the fact is I think he wants to ask a few questions himself on the proposition. I am willing, however, to have a vote, and whatever the committee decides will be all right. Mr. Franklin is a man whom we both want to examine, and he is always here, so there is not any trouble about that; he is handy.

Mr. FRANKLIN. I would like to say here that I may appear to be always in Washington, but I really am not. I have my duties in New York, and I am there practically constantly, but I am very glad to come down here at any time.

Mr. TINCHER. You want to come down when the Attorney General comes before the committee.

Mr. FRANKLIN. I will be here at any time you gentlemen want me to be here, and I will be very glad to give you any information I have. That is understood. I will be very glad to appear to-day and go on with anything anybody wants to ask about.

Mr. TINCHER. If you did appear to-day, you would be back when the Attorney General comes before the committee?

Mr. FRANKLIN. I will be here, sir, at any time this committee meets to consider this resolution, if I am allowed to be in the room at the time the session takes place.

Mr. KINCHELOE. Mr. Chairman, let us vote on these motions.

Mr. TINCHER. I will accept the amendment of Mr. McLaughlin of Nebraska.

The CHAIRMAN. The motion, then, is that the meeting be postponed and that this hearing be the first hearing after the convening of Congress in December.

Mr. McLAUGHLIN. Then we will have to submit everything after that to the Attorney General, and there will be further delay. It seems to me we ought to get together such testimony as we can and submit the whole thing to him.

Mr. JONES. Why can not it be submitted in the meantime to the Attorney General?

Mr. CLARKE. Because Mr. Tincher has additional facts he wants to get in the record.

Mr. WARD. I will not be able to be here in December.

Mr. TINCHER. I assume we will all be here for the opening of the regular session of Congress?

Mr. WARD. I expect to go to Europe.

Mr. VOIGT. Mr. Chairman, the committee has heard all the evidence in this matter once before. Any member who wants to get information on this resolution, I take it, can get it by reading the former hearings. I would like to inquire of the members present whether there is any further light a member here can shed on this subject?

Mr. TINCHER. Yes; considerable light; and I intend to put it in the record.

Mr. WARD. By questioning Mr. Franklin?

Mr. TINCHER. Yes.

Mr. WARD. Then go ahead.

Mr. TINCHER. We will vote, I guess, on this other proposition. I want to adjust myself to the convenience of everybody, as best I can, but we have a motion pending not to take this matter up until the regular session.

Mr. VOIGT. Mr. Chairman, personally I am ready to vote on this proposition now. I have all the information I think I am ever going to get on it, and I am not in favor of this delay until the December session. I have not any interest in this resolution further than to do justice. Now, if the further light that is to be shed on this subject consists of an examination of Mr. Franklin by Mr. Tincher, I think, in all fairness, that that examination should proceed right now.

The CHAIRMAN. Are you ready for the question of postponing the hearing until the first meeting in December?

Mr. WARD. I am opposed to that motion. I think there could be no object in delaying this matter except to defeat it. The facts are all here, and there can not be any more facts given, and I am ready to make a motion to vote the bill out right now.

Mr. WILLIAMS. Without hearing the Attorney General?

Mr. WARD. I do not think the action of this committee should be held exclusively to the Attorney General's opinion, as I believe we are very well able from the information we have had to decide what we want to do or what we do not want to do.

Mr. McLAUGHLIN of Michigan. I differ from you there. The Attorney General was before us and we have asked him to give an opinion. We have told him we would submit all the testimony to him. We have not done it, and in courtesy to him I think we ought to submit the testimony and give him a reasonable time to form his opinion and then appear before us and tell us what it is.

Mr. CLARKE. I think that is right.

Mr. McLAUGHLIN of Michigan. But it seems to me there will be unreasonable delay if we postpone to the December session the taking of testimony, because it will have to be submitted to the Attorney General, and he will want all of it, and then the Chairman or some one else is going to see the people at the State Department in order to get certain matters, and perhaps some of that ought to go before the Attorney General. I do not see why we should postpone this matter until December. If we have the testimony given then, and submit it to the Attorney General and then give him time to make up his opinion and appear here, there will be unnecessary delay. So far as the Attorney General is concerned, I would like to know his opinion on the legal proposition of whether there is a legal liability here. The question of the moral liability of the Government on this proposition, I think, is up to this committee to determine, and I shall use my own judgment and not the judgment of the Attorney General on that phase of the question. It would seem to me we ought to go on with what we can reasonably do now. We can save a great deal of time, and I can not see any impropriety in it or any unfairness to anybody.

Mr. JACOWAY. Mr. Chairman, I want to make this supplementary statement. This committee of the House, in my opinion, has more important legislation before it than any other committee of the House, and the time of the committee, as well as the time of the members of the committee, is very valuable. Likewise, the time of the gentlemen interested in this resolution is valuable, and I feel that if we do not make more progress in disposing of this matter than we have already made little children will be grandparents before we get it out of this committee. I agree with Mr. McLaughlin of Michigan that we owe this courtesy to the Attorney General in order that he may be acquainted with the entire record. Another thing, so far as I am concerned, my mind is made up on the merits of this resolution, but I am in the attitude of a juror qualifying for service upon a jury; my mind can be changed by testimony. If the testimony that has been referred to by Mr. Tinchler is forthcoming and he can make good on the proposition that he has other testimony that has never been brought before this committee, as one member of the committee I am going to insist that the record be full and complete, and I am unwilling to vote this resolution out of the committee this morning, even though my vote would vote it out, but I think we have delayed too long. Let us complete the record and let the record be as comprehensive in detail as possible, so that when we meet here in December we can refresh our memories and then either vote this bill out or not vote it out. So far as I am personally concerned, I think Mr. Franklin ought to be heard and then I think the Attorney General ought to be heard, and then when you have done that you have the different elements in the equation completed and every member of this committee can arrive at an honest and just conclusion in regard to what ought to be done.

Mr. VOIGT. Do you not think we ought to go on now and complete the record?

Mr. JACOWAY. I have stated that. I would hate to get upon the floor of the House and then have some testimony come out that we knew nothing about and have the gentleman who wanted to introduce that testimony say that they were precluded from presenting the testimony before the committee. Let the record be as complete as human ingenuity can make it, and then vote the resolution out or vote it down.

Mr. KINCHELOE. Mr. Chairman, if we should postpone this matter until the 1st of December, with the understanding that we were to take this up first, everybody would be here then and we would get right down to work on it every day and we would not lose any time at all.

Mr. McLAUGHLIN of Nebraska. Not a minute.

Mr. KINCHELOE. We would also have this additional testimony fresh in our minds when the resolution was reported out, if it was reported out.

Mr. WARD. We could not report it out then because we would have to submit the record to the Attorney General.

Mr. KINCHELOE. That is one reason I am in favor of postponing it until December. We all know the great responsibility now on the Attorney General of the United States in connection with the impending railroad strike, and I think it would be an injustice to him to ask him to divert his mind from that matter to this resolution, and my own opinion is—and I think I am right about it—we will not get any opinion from the Attorney General before the 1st of December anyhow; and I think it would be an act of discourtesy to him to undertake to report the matter out without his opinion, because the question has already been submitted to him.

Mr. McLAUGHLIN of Michigan. He will have to have all the testimony. You say we can get his opinion by the 1st of December, but we would not begin to take the testimony until that time.

Mr. KINCHELOE. It would be only a matter of a few days.

The CHAIRMAN. Mr. Jacoway, you spoke about there having been a delay. You are not holding the committee responsible for that delay?

Mr. JACOWAY. I am not charging anybody with delay, but I know the fact remains there has been delay. As to who has been responsible for that I do not know.

Mr. JONES. Let us have a vote on the motion, Mr. Chairman.

The motion of Mr. Tincher, having been duly seconded, prevailed.

The CHAIRMAN. Mr. Snell has requested a hearing on January 9, 1922, on H. R. 129, to provide, through cooperation between the Federal Government, the States, and owners of timber lands, for adequate protection against forest fires, for reforestation of denuded lands, etc.

Mr. VOIGT. Mr. Chairman, I move that they be heard at that time.

The motion, having been duly seconded, prevailed.

(The committee thereupon adjourned.)

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, January 18, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

Present: Mr. Haugen. Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voight, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gerner, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

Mr. TINCHER. Mr. Chairman, if we are starting in on the sugar hearings, I would like to ask the clerk of the committee a question or two.

Mr. ASWELL. Have the gentlemen any further evidence to submit to the committee, Mr. Ward?

Mr. WARD. None that I know of.

STATEMENT OF MR. L. G. HAUGEN, CLERK OF THE COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES.

Mr. TINCHER. Mr. Haugen, at a former meeting of this committee we requested the Secretary of State to furnish all the correspondence and files concerning this sugar transaction. You have some correspondence with the Secretary of State on that subject, have you not?

Mr. HAUGEN. Yes, sir; I have a letter here from the Secretary of State. Shall I read it?

Mr. TINCHER. Yes; if you will.

Mr. HAUGEN (reading):

THE SECRETARY OF STATE,
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9, referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Depart-

ment of Justice was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date. It is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,

Sincerely, yours,

CHARLES E. HUGHES.

Hon. GILBERT N. HAUGEN,
House of Representatives.

Mr. McLAUGHLIN of Michigan. The Secretary speaks of a resolution of the Senate. Did some of this correspondence go to the Senate?

Mr. WARD. No; he is simply speaking of the resolution which was passed by the Senate.

Mr. McLAUGHLIN of Michigan. It was not a resolution asking for the correspondence.

Mr. WARD. No; that is not what he referred to at all.

Mr. HAUGEN. The letter states:

"It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice, was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate."

Mr. WARD. He refers to the original resolution.

Mr. McLAUGHLIN of Michigan. Do you know whether or not some papers have been given to the Senate committee that have not been filed here?

Mr. WARD. No.

Mr. TINCHER. I do not, and I want the record to show, Mr. Chairman, that my reason or the committee's reason, I suppose, for asking for this correspondence was because a young gentleman formerly in the Department of State, and at that time connected with the Department of State, appeared before this committee and gave evidence in favor of these claims, and on examination it was disclosed that we had no portion of the correspondence and no information concerning the actual correspondence between the Department of State and the Argentine Government.

I have examined the Senate hearings and have them before me, and have been present at all the hearings we have had on this bill in the Agriculture Committee of the House, and I know there has never been an opportunity offered to this committee to examine that correspondence, and there is nothing printed showing that it has ever been offered to any Senate committee, and as far as I am concerned, I am unwilling to pass the matter up in that way. When this bill was reported out before, it caused some comment on the floor of the House, and it was unanimously agreed by the men who do things on the floor that we had not gone into the matter thoroughly. I was criticized and I suppose other members of the committee were criticized because we had not gone into the matter as thoroughly as we could have gone into it. I do not see much excuse for our not getting the information which this young man, appearing from the State Department, said existed up there. He did not undertake to repeat the conversation, but he testified about the records up there, and still we have not had the records to examine.

Mr. CLARKE. I have just received a copy of a letter that was addressed to the chairman of the committee in reply to a letter which he sent to the Attorney General, and it would seem to me that if the Attorney General has looked into all the legal phases of this matter in a thoroughly fair way and has examined into all the facts and circumstances of the case, so far as I am concerned, I am perfectly willing to take the opinion of the Department of Justice as to the legality of this claim.

Mr. TEN EYCK. May I ask if that letter has been put in the record.

Mr. CLARKE. No.

Mr. TEN EYCK. Mr. Chairman, do you not think that letter ought to be put in the record?

Mr. CLARKE. This is a copy of the Attorney General's reply to your letter.

The CHAIRMAN. Certainly, but I thought you wanted to dispose of this other matter first.

Mr. TINCHER. Every man has to satisfy his own conscience about these matters. I have a little different view from the opinion you express. My notion is that the people elect you and I to represent them here in Congress, and it becomes our duty to pass laws. If this matter was not in the nature of a matter requiring a law to be passed which it is our duty to consider, it would not be submitted to this committee. Now, there is certainly information in the Department of State. There has been a lot of correspondence carried on with the Argentine Government, and, with the very highest regard for Attorney General Daugherty, I know that we have made more efforts in this committee, have had more time and opportunity to get information, perhaps, outside of examining this correspondence, than he has had. We have finally got to arrive at a conclusion on it, and I think, in fairness to the committee, instead of taking some other man's opinion, after having examined that correspondence, the committee should have an opportunity to examine it.

Mr. WARD. Do you believe the Department of State would be in favor of not telling the truth?

Mr. TINCHER. No; I do not say that, but I mean to say that I am not bound by any conclusion some other department has arrived at by examining some facts, and it is my duty to go into those facts as well.

Mr. JACOWAY. Just in a word, what is the situation? Do you want more testimony?

Mr. TINCHER. You will recall that a very dapper, fine looking young man, from Indiana, who was with the State Department, came down here and told this committee that we ought to pay this claim because of the connection the Secretary of State's office had had with the claim through him, and I asked him if the transaction was in writing, and he said "Certainly; there was a big file on it," and I said that as one member of this committee I wanted to examine that correspondence, and the committee by unanimous vote requested that the correspondence be furnished to this committee for our examination. Now, we come back here and we are asked to take as a substitute for that the opinion of some one who has had the opportunity, no doubt, of examining that correspondence. I do not propose to go on the floor of the House and say that I could not get the correspondence, but I got the opinion of my friends on it.

Mr. CLARKE. Are not those matters referred to by the Department of Justice?

Mr. JACOWAY. I thought it was the viewpoint of the committee that a committee be appointed to wait on the Attorney General and ask him for an official opinion. Now, the correspondence may have been called for, and I would be very glad to see that.

Mr. JONES. The correspondence was called for by a resolution passed by the committee.

Mr. JACOWAY. I thought all the correspondence was in the brief which was filed by the sugar people.

Mr. TINCHER. Oh, no; this young man admitted there was a whole stack of correspondence there, and when we reported this bill out before, we were criticized and Members came to me and said, "I thought you knew how to get at facts." "Why did you not get at the facts and present them," and personally I intend to get the facts the best I can.

Mr. TEN EYCK. I would like to ask the gentleman what the duty of the Attorney General is, what is his position, what is he paid for?

Mr. TINCHER. The Attorney General is a member of the Cabinet appointed by the President, whose duty it is to give us legal opinions, I suppose, as well as any other Federal officer; but that does not preclude us from examining the facts for ourselves.

Mr. TEN EYCK. But you will admit that he has given us his legal opinion with reference to this matter, and do you not think he is a competent man. I would like to know whether you think Mr. Daugherty is a competent man?

Mr. TINCHER. Yes, I do. You can not get up any quarrel between Mr. Daugherty and myself. I have talked with him about this claim.

Mr. TEN EYCK. Then are you not willing to take his advice?

Mr. TINCHER. Do you mean to ask whether I am willing to let a member of the Cabinet tell me what law I shall pass or shall not pass?

Mr. TEN EYCK. If he is hired for that purpose, as regards its legality.

Mr. TINCHER. Any man whose conception of his duty as a Congressman is that he should pass laws at the beck and call of a Cabinet officer ought to stop, look, and listen.

Mr. TEN EYCK. I like to listen to what the Cabinet officers who are opposed to me politically have to say about it, and if they agree with me, then I come to think that we are pretty nearly right.

Mr. JONES. I want to state in this connection that the Attorney General has rendered an opinion in this matter, and I was glad to get his opinion, but it developed in the examination of one of the witnesses that only a very limited portion of the correspondence that had passed between the State Department and the officials of these companies was disclosed in the brief, and in the evidence before the committee. A resolution requesting the State Department to furnish the complete correspondence, if it was not contrary to the public welfare, or something to that effect, properly safeguarding it, was thereupon passed. Now, I am like Mr. Tinchler, I would like to see this original correspondence unless there is some reason why it should not be furnished.

Mr. PURNELL. As a matter of information, I should like to know when that request was made? What is the date of the hearing before the committee at which time we determined by a vote of the committee to ask for this additional testimony or correspondence?

Mr. JONES. I have forgotten the young man's name, but there was a young man here who was formerly with the Department of State.

Mr. TINCHER. And he said he was from Indiana.

Mr. PURNELL. I remember he said he was from Indiana.

Mr. TINCHER. And he stated that this was only a small part of the correspondence.

Mr. HAUGEN. The date was June 9, 1921.

Mr. JONES. It does seem to me that the committee is entitled to that information.

Mr. TEN EYCK. But is it fair to hold the case up when it does not appear that anybody is going to make an effort to get the information. Are you going to hide behind the skirts of "wanting more information," and then make no effort to get it? I hold that anybody who knew that he was going to take that position should have made an endeavor to get the information and had it sent to us.

Mr. JONES. I do not know whether the resolution directed the secretary to call for the correspondence or the chairman, but I suppose it was called for in the regular way.

Mr. PURNELL. This letter from the Secretary of State is dated June 27 and is in reply to a request from the committee, based on that resolution which was passed. That is the reason I ask for the date. Mr. Chairman, if this letter has not been made a part of the record, I think it should be.

The CHAIRMAN. It has been made a part of the record.

Mr. JONES. That is with reference to a House joint resolution. It does not refer to the resolution the committee passed at all.

Mr. PURNELL. That was subsequent to the time when the information was asked for.

Mr. JONES. I understand that.

The CHAIRMAN. That is the information which we received from the State Department in reply to our request.

Mr. TINCHER. Mr. Chairman, if we may proceed in order, in connection with this point, I desire to read into the record a notice that the chairman of this committee gave to the Secretary of State, to which the letter read by Mr. Haugen, the clerk of the committee, was an answer. On June 9 the chairman of this committee wrote Secretary Hughes as follows:

JUNE 9, 1921.

HON. CHARLES E. HUGHES,
Secretary of State.

MY DEAR MR. SECRETARY: The Committee on Agriculture is at present considering H. J. Res. 78, authorizing the President to require the United States Equalization Board (Inc.) to take over and dispose of 13,902 tons of sugar imported from the Argentine Republic.

I have been instructed by a resolution adopted by the committee to request you to furnish the committee with copies of all correspondence of your department relating to the transactions referred to in this joint resolution.

Very truly, yours,

That letter was signed by the chairman of the committee.

Mr. VOIGT. What is the date of that letter?

Mr. TINCHER. June 9.

Mr. ASWELL. What more could the Secretary of State say than he has already said? He has said that he did not have anything more that was new.

Mr. TINCHER. Mr. Chairman, I do not want to be contentious about this matter, but I want the record to be clear. This resolution was passed by a unanimous vote of the Committee on Agriculture, as the result of the testimony of a man from the Department of State who appeared here on behalf of these claims and testified for them. Will some one tell me his name?

Mr. FRANKLIN. His name is Mr. Wiley.

Mr. TINCHER. Yes; Mr. Wiley, who admitted in the course of his testimony that the correspondence between the Department of State and the Argentine Government was voluminous. It was at that time I offered a resolution which was adopted by unanimous vote calling for this correspondence. I want to call attention further to the fact that we have not now any portion of that correspondence before the committee, and as far as I am personally concerned, while I do not hold myself as the regulator of other Members or anything of that kind, I would like very much to have examined that correspondence, especially in view of the testimony given here by this young gentleman who appeared here as the man who handled this thing for the Department of State.

Mr. CLARKE. I would like to supplement Mr. Tinchler's statement by putting in the record right here a copy of a letter from the Attorney General to the chairman of this committee, being the opinion of the Attorney General's office.

Mr. ASWELL. I think very highly of that opinion, inasmuch as it corresponds with the opinion of the former Democratic Attorney General.

The CHAIRMAN. Will you read the letter, Mr. Clarke?

Mr. CLARKE. This is a copy of a letter dated January 17, 1921.

Mr. TEN EYCK. Mr. Chairman, do you not think we had better read the original letter into the record rather than a copy.

The CHAIRMAN. The clerk has the original letter and will read it.

Mr. WILLIAMS. Is it a letter from the Attorney General?

Mr. CLARKE. It is a letter from Mr. Guy D. Goff, assistant to the Attorney General.

(The clerk read the letter referred to, as follows:)

DEPARTMENT OF JUSTICE,
OFFICE OF THE ASSISTANT TO THE ATTORNEY GENERAL,
Washington, January 17, 1921.

HON. GILBERT N. HAUGEN,
*Chairman Committee on Agriculture,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In response to the request of the committee at the hearing on June 9 last for an opinion upon the legal obligation of the Government to indemnify the American Trading Co. and B. H. Howell Son & Co. for losses suffered in connection with the importation of sugar from Argentina, as proposed in H. J. Res. 78, I take this occasion to submit for the committee an informal expression of the view of this department.

The Attorney General expressed the view before the committee that there was an undeniable moral obligation, and, in his opinion, a legal obligation upon the Government. The committee has also been fully informed of all the facts from competent sources, as appears from the statements before it and the reports of the several committees which have considered the subject, including its own majority and minority report, No. 1276, dated February 1, 1921. The facts shown therein indicate the ground of legal liability. They are not, as far as can be ascertained, seriously questioned. They plead powerfully in behalf of the companies and show that it was in pursuance of authority to deal with the then existing high prices that the Attorney General became connected with the matter and used these companies to ameliorate that condition.

The Attorney General, in the exercise of authority derived from the Lever Act and conferred on him by the President, was authorized to use means which were necessary and appropriate to provide the country with an adequate supply of sugar. That the arrangement between the department and Howell Co. and the Trading Co. was proper means is, of course, beyond doubt, because it brought to pass the relief for which it was used and brought it to pass in a much greater measure than was expected. Indeed, its very efficacy is among the important facts causing the loss.

As a matter of law, however, the question is rather whether these companies were such agencies as were intended in the Lever Act and the instrument conferring authority upon the Attorney General. The agencies there referred to were, of course—because of the peculiar situation then existing—not limited to such only as previously had been recognized or used; and consequently it is not necessary to establish here a strictly legal relationship of agency in which the agent is entirely subject to the control of the principal. Apart from the arrangement entered into with the department, these companies were independent importing and distributing agencies, but with respect to that arrangement, while retaining much of their independence, which indeed was necessary for the purpose, they were in a very large measure controlled by the department, and especially in those particulars out of which the loss immediately grew; for instance, in connection with authority to ship from Argentina and distribute sugar in this country. That they were in these particulars controlled by the Government, that the loss is attributable to such control, and that but for the control the loss might have been prevented appears from the fact that the Government prohibited the sale of the sugar in the Argentine when the loss was foreseen. And that this prohibition was respected establishes the fact that the Government's control was understood and that obedience to its order would not result in loss to the companies.

In the view of the department there is no uncertain authority in law under which the Attorney General acted; nor is it possible to consider this subject as a legal matter apart from its equitable nature. The view that there is no legal liability is at best doubtful, and it must be kept in mind that as a legal, and especially as a practical matter, the equities which so strongly color the facts will distinctly tend to resolve doubtful legal questions in favor of the companies. These claims may indeed be termed debts of the United States, debts of that peculiar character which dictate relief at the hands of the Congress, as intimated by the Supreme Court in the following passage from *United States v. Realty Co.*:

"What are the debts of the United States within the meaning of this constitutional provision (art. 1, sec. 8)? It is conceded, and indeed it can not be questioned, that the debts are not limited to those which are evidenced by some written obligation or to those which are otherwise of a strictly legal character. The term 'debts' includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual. The Nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law."

As stated in another letter to you upon the subject, in view of the peculiar obligation upon the Government in this case, in which there appears to be general acquiescence, it seems to the department, after a review of all the evidence, that the legislation should be passed.

Respectfully,

GUY D. GOFF,
Assistant to the Attorney General.

MR. TINCHER. On the subject of this correspondence and whether the committee shall have it or not, while I have the very highest regard for Mr. Goff as a lawyer and as a gentleman and as a statesman. I want to call attention to the fact that Mr. Goff's opinion that we should pass this legislation is based upon such facts as he had at his disposal. Whether we shall indulge in the presumption that he had more facts than we are able to get and be satisfied that he had all the facts, is a question that the committee should decide.

MR. ASWELL. Does he not say that he has gone into all the evidence?

MR. TINCHER. Let me finish this statement first, please, because I have something definite in mind. I want to suggest here that Mr. Goff's letter very clearly demonstrates that he bases his opinion that the bill should be passed and this money paid to these people on the assumption that this Government prevented an equitable transaction by which these companies could resell their sugar in the Argentine, whereas my understanding has been from what little evidence we could get, although we can not get the full file and correspondence, that these companies never offered to sell the sugar in the Argentine except at an exorbitant profit, and that they were not held up any length of time in

making a resale there, but owing to the price at which they offered to resell the sugar in the Argentine, they should have been prevented from selling it, because they had gone down there and put the price of sugar up, and they should not have been permitted to have exacted any such profit as they were asking, and I think the letter of Mr. Goff emphasizes the fact that this committee should examine the papers and documents in order themselves to arrive at their own conclusion as to whether or not we should favorably report this bill. This committee has passed a resolution and has requested that these files be brought here for our examination and perusal. I do not think any Member of Congress has the right to go down to the Department of State and ask to see something that the committee could not have produced and presented here. I simply wanted to call attention to the status of this matter:

Mr. ASWELL. Does not Col. Goff say he has examined all the evidence in this case?

Mr. TINCHER. No; he does not say he has examined all the evidence. He has, no doubt, examined this evidence here.

Mr. WILLIAMS. I do not suppose they would submit evidence to him which they would deny giving the committee.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I guess everybody on this committee knows I have been in favor of reporting this bill favorably. I have been influenced only by the testimony that has been offered. I believe the testimony shows a condition of affairs that the Government ought to take notice of. The Government has obligated itself and ought to pay this money. As I say, I base my opinion on the testimony. There is a very strong suspicion to the effect that all the testimony has not been available to this committee. I think it ought to be available. I agree with Mr. Tincher. We have a right to look over these papers ourselves. We are not necessarily bound by the conclusions reached by the Secretary of State as to what those papers show or as to the conclusions to be drawn from those papers. We are not bound by the opinion of the Attorney General as to what those papers show or the conclusions to be drawn from them. It is our duty to see those papers ourselves and draw our own conclusions. I think the Secretary of State should have complied with our request to send all the papers or copies of them to this committee. It often happens in connection with diplomatic matters that the papers can not be made public and should not be made public. I would be willing, of course, and we must observe the usual rules in a situation of that kind, but I see no reason why we can not examine the papers. If the Secretary had said that there were some papers that ought not to be made public, and that copies of them could not be sent to this committee, I would, of course, be willing to accept his opinion and act upon it, but I think we ought to see those papers. I doubt very much, from what I have heard, that there are other papers that bear materially on this matter. I think we have seen nearly everything, but I do not believe it would be proper for us to go on, leaving the suspicion that we have not gone fully into this case and examined all the papers. I regret the delay very much, and I think it might have been avoided if we had known before the contents of the Secretary's letter. I am not blaming anybody for that. I blame myself as much as anybody else, but I think we ought to have access to all the papers so that we, as well as the Secretary of State, and the Attorney General, can draw our conclusions as to our duty in the matter. We are not bound by their opinions in matters of this kind. That is the way I feel about it.

Mr. GERNERD. Mr. Chairman, I heartily concur with Mr. McLaughlin. I have looked into this matter carefully and I am in favor of reporting this bill out, but I do not want to vote in favor of reporting out this matter under a cloud or under any possible suspicion that there may be additional evidence, and therefore I make the motion—

Mr. TEN EYCK. Before doing that, can we not hear what the Secretary of State has said. I have not heard his reply to our letter.

Mr. WARD. It was read into the record.

Mr. McLAUGHLIN of Michigan. He simply says that the case has been clearly set forth. Now, that is his opinion and a conclusion which he draws from the papers. We might draw a different conclusion from those papers. It is our duty to see them and draw our own conclusions.

Mr. TEN EYCK. Mr. Chairman, can we not have the letter read. There are some other gentlemen here who have not heard it.

(The clerk read the letter referred to, as follows:)

THE SECRETARY OF STATE,
Washington, June 27, 1921.

MY DEAR MR. HAUGEN: I am in receipt of your letter of June 9 referring to H. J. Res. 78, in which you request that you be furnished with copies of all correspondence in the department relating to the transactions referred to in this joint resolution for the information of the Committee on Agriculture.

It appears that the connection of the Department of State with the transaction undertaken by the American Trading Co. at the instance of the Department of Justice, was set forth very clearly to the Committee on Agriculture at the last session of Congress, when the resolution was passed by the Senate. Inasmuch as there has been no further correspondence between this Government and the Argentine Government regarding this question since that date, it is my belief that the documents submitted by the Department of Justice to the committee during the last session contain all the evidence at the disposal of the Department of State.

I am, my dear Mr. Haugen,
Sincerely, yours,

CHARLES E. HUGHES.

Hon. GILBERT N. HAUGEN,
House of Representatives.

MR. WARD. What makes you think there is more evidence?

MR. McLAUGHLIN of Michigan. I do not know whether there is or not.

MR. JONES. In that connection, I want to read a little excerpt from the testimony when this question came up. I asked Mr. Wiley this question:

"MR. JONES. I wish you would get a copy of the brief filed by Mr. Franklin in this matter and look it over, particularly copies of instructions, and see if you received any other instructions that are embodied in this brief, whether there as any that pertained to this matter.

"MR. WILEY. I think there is comparatively little here. There is a great deal more, many reports and many other cables. That is something that I cannot furnish. If you want that the committee should formally ask the State Department to give you copies.

"MR. JONES. You can not furnish us with copies?

"MR. WILEY. No.

"MR. JONES. That is all.

"MR. TINCER. For the record, you say there are many communications between the State Department and yourself?

"MR. WILEY. And the embassy.

"MR. TINCER. With reference to this matter not in this brief?

"MR. WILEY. There is a very voluminous correspondence.

"MR. TINCER. I have always thought that. I want to ask you now to produce all that correspondence.

"MR. WILEY. You will have to ask the Secretary of State formally.

"MR. JONES. Did you have any cables or instructions that have not been furnished to the committee either at this hearing or at the other hearing?

"MR. WILEY. I do not know what you have got.

"MR. JONES. Could you furnish any additional ones that have not been furnished?

"MR. WILEY. If there is anything further that you want from the department, I think the department will be very glad to furnish it if you make a formal request."

Then Mr. Tincer said: "I move, Mr. Chairman, that we request the entire correspondence be furnished to this committee for examination."

MR. WARD. And they have replied that they have no more evidence that could possibly bear on the case.

MR. JONES. But here is a man who had a part in the transaction and he says that "there is a great deal more."

MR. WARD. That does not mean there is any more evidence.

MR. CLARKE. This letter from the Department of State was read at the last meeting of the committee.

MR. ASWELL. May I ask Mr. Franklin if there is any more evidence?

MR. FRANKLIN. Mr. Aswell, I do not know. I have never seen the files myself.

Mr. ASWELL. But you know what transpired?

Mr. FRANKLIN. I know there is more evidence other than what was put before this committee, but I do not believe, as far as my knowledge is concerned, there is any more evidence in that file that has any direct bearing on this case.

Mr. CLARKE. Was it not suggested that part of that correspondence was diplomatic correspondence conducted during the time of the war and that there was some reason for withholding it?

Mr. JACOWAY. Mr. Chairman, following the testimony on page 69, as read by Mr. Jones, and in response to the inquiry just asked by Mr. Clarke, I would like for the balance of the testimony relative to that point to go into the record, as follows:

"Mr. ASWELL. I think that request should be directed to the Secretary of State.

"Mr. TINCHER. I am directing it to him.

"Mr. GERNERD. Oh, no, Mr. Tinchler; you can not do that. That would not be right.

"Mr. TINCHER. I think we ought to examine the whole record. Somebody at some time, has picked out such parts of this record as they wanted to put in a brief, and I think we should ask for the entire record.

"Mr. WILEY. Part of that correspondence is very confidential.

"Mr. McLAUGHLIN of Nebraska. I move that the committee ask the Secretary of State to furnish the committee with copies of all the correspondence that passed relative to this transaction.

"Mr. SINCLAIR. I second that motion.

"Mr. ASWELL. Mr. Chairman, I move to amend the motion by inserting 'all the correspondence and reports that will not interfere with diplomatic relations and are not incompatible with the public interest.'

"Mr. TINCHER. I would accept that amendment.

"Mr. McLAUGHLIN of Nebraska. The motion refers to papers relative to this transaction?

"Mr. THOMPSON. Yes; the motion, as I understand it, Dr. Aswell, is qualified, because it refers to all papers relative to this transaction.

"Mr. ASWELL. That is all right.

"Mr. McLAUGHLIN of Nebraska. I am not asking for anything except such matters as are relative to this transaction.

"The CHAIRMAN. Do you withdraw your amendment, Mr. Aswell?

"Mr. ASWELL. Yes.

"(The motion, having been duly seconded, prevailed.)

"Mr. WILEY. Is there anything else, Mr. Chairman?

"The CHAIRMAN. There appear to be no further questions. We are very much obliged to you, sir."

Mr. ASWELL. Are you now going to write a letter to the Secretary of State saying that you do not believe what he has said before?

Mr. TINCHER. Oh, no; there is no use injecting bad faith into this matter, but here is the proposition: If I was employed as a lawyer to try a lawsuit and was to get \$5 for it, and I knew there were certain papers in a file, if I took some other man's judgment as to what those papers would prove, my client would have a right to kick me out.

Mr. GERNERD. That is right.

Mr. TINCHER. I am here representing 300,000 people in Congress, and their money is going to help pay this claim just as much as the money of any other section of the country, because they were paying 30 cents a pound at that time for sugar, and I want to know how I can justify not getting all the facts. I am like Mr. McLaughlin, I think probably the files will not prove much, but what possible justification can a member of this committee offer for not going into the facts before he reports out a bill?

Mr. WARD. Do you believe that this letter of the State Department does not comply with the request made by the committee?

Mr. TINCHER. Certainly; it does not pretend to comply with it. Let me suggest this: Who wrote the letter from the Secretary of State's office?

Mr. CLARKE. Charles E. Hughes's name is signed to it.

Mr. TINCHER. It is a safe assumption that Mr. Hughes did not write it. We all know that.

Mr. CLARKE. It is also a safe assumption that he does not sign any letter he does not read, and read carefully.

Mr. TINCHER. Mr. Wiley may have prepared it.

Mr. WARD. Mr. Wiley was not in the department when that letter was written. Mr. TINCHER. He was when he gave his testimony.

Mr. WARD. No; he was not.

Mr. JONES. He said so at the hearings. Here is the question that was asked him:

"Mr. TINCHER. You say you are with the Department of State now?

"Mr. WILEY. Yes, sir."

Mr. WARD. I thought he was not with the department at that time.

Mr. GERNERD. Would this be out of order, to have the chairman of this committee appoint a committee of three to call upon the Secretary of State and present our situation to him, and if there is any confidential matter, let the Secretary of State show that, and what matters are not confidential and will not interfere with diplomatic relations, let that be submitted to this committee. I think, in all fairness, that ought to be done within the next week.

Mr. WARD. You already have that.

Mr. GERNERD. Mr. Ward, I would not jeopardize a presumably good thing by a little matter of this kind when it is only a question of a week or 10 days. I have gone over this matter, and, personally, I think this bill ought to be reported out, but I think Mr. Tinchler's point is well taken, and Mr. Laughlin's point also.

Mr. TEN EYCK. Mr. Gerner, I would like to know whether we are going to take the committee's report on this if we do not take the word of the Secretary of State. Will the committee of three be more responsible than the Secretary of State, who was chosen by the President of the United States and is now conducting one of the greatest international conclaves in the history of the world.

Mr. GERNERD. Here is the point. Mr. Ten Eyck. The fact is that this question has been raised here and I think the Secretary of State ought to know exactly the feeling, and if there is anything with regard to that correspondence that is confidential, then it should not be reported.

Mr. ASWELL. Does anyone know what the Senate did about this? Did they investigate it?

Mr. TINCHER. I do not know. I have been confined to the stuff that has been brought here.

Mr. ASWELL. They passed a resolution.

Mr. TINCHER. The present Secretary of State is not only one of the greatest diplomats in the world, but one of the greatest, if not the greatest, lawyer in the United States. I am a lawyer and I want the respect of the Secretary of State, and I do not want him to think I would be satisfied without going into all the facts. I have not asked for any delay here. I am simply trying to clear up the record. I am ready to cross-examine the witnesses.

Mr. ASWELL. What do you think we ought to do? Make a suggestion.

Mr. TINCHER. We passed the resolution.

Mr. ASWELL. Shall we pass another one?

Mr. TINCHER. I do not think so.

Mr. VOIGT. Why can not the chairman appoint a committee of three and let one or two members of that committee be for this resolution and one or two opposed, and let them go to the Secretary of State's office and look over the correspondence, and if any member of that committee thinks there is any new proof in the files of the Secretary of State's office, let him bring a copy of it before this committee. I think that would be the easiest way out of this difficulty.

Mr. McLAUGHLIN of Michigan. And if there is something that can not be published, we would leave it out of the record.

Mr. TINCHER. To show you how wild we can get about a matter of this kind, it has even been suggested that there was probably some of this correspondence concerning the war when not a bit of it happened for more than a year after the war.

Mr. CLARKE. But there is always certain correspondence of this sort which for diplomatic reasons can not be published.

Mr. GERNERD. Mr. Chairman, I am going to amend Mr. Voigt's motion, and my suggestion is that Mr. McLaughlin of Michigan, Mr. Jacoway, with the chairman, be appointed such a committee to call upon the Secretary of State.

The CHAIRMAN. I would suggest Mr. Tinchler and Mr. Ward.

Mr. WARD. I would suggest that there be a committee of three appointed, one favoring the resolution, one opposed to the resolution, and let the chairman

pick the third member, and that committee go to the Secretary of State's office and get this information. If they believe there is any evidence there that we should have they will obtain it, otherwise they can come before the committee with a written statement from the Secretary of State that it was impossible to give us the information.

Mr. McLAUGHLIN of Michigan. I am spoken of as being in favor of this resolution. I am, so far as the testimony which has been produced. If other testimony to another effect is offered here, I may change my mind. I am not bound up on this question. I have never expressed an opinion that would bind me.

Mr. TEN EYCK. I guess every other member of the committee feels the same way. If any testimony comes up showing why we should not favor it, we would vote against it.

Mr. CLARKE. Yes.

Mr. GERNERD. Absolutely.

The CHAIRMAN. My thought was that if we appointed a committee both sides ought to be represented on that committee to investigate and report on the matter.

Mr. CLARKE. Why not appoint the three lawyers over there, Mr. McLaughlin, Mr. Tinscher, and Mr. Jacoway, and I make a motion to that effect, and I also think the chairman should be on the committee.

Mr. WARD. My motion was that we appoint a committee of three, one member opposed to the resolution, one in favor of it, and the chairman to name the third member.

Mr. GERNERD. I think the chairman of this committee ought to be a member of the committee.

Mr. WARD. I do not know whether he wants to be or not.

Mr. ASWELL. Why? He is not a lawyer.

Mr. GERNERD. That does not make any difference. I think the chairman of the committee on a matter as important as this ought to be a member.

Mr. TINSCHER. I can not help but believe that if this matter was presented by the chairman again to the Secretary of State, and if it was suggested to him that we would go into executive session, and if Mr. Hughes had time to give the matter a little thought himself, I am sure he would send the files down here. I am wondering what condition of mind a member of the committee would be in if three of us should go down there and examine the reports and come back here and claim that it proved different things.

Mr. VOIGT. It would be up to the subcommittee to bring the proof here.

Mr. GERNERD. It would be up to them to bring what they found, and not their opinion about it.

Mr. WARD. Either bring the proof here or bring a written statement that we can not have it.

Mr. CLARKE. I do not believe they will want to turn over the complete files to the committee. I believe there are reasons why part of that correspondence should not be turned over to the committee.

Mr. TINSCHER. Mr. Hughes does not suggest in any letter of his, and it has not been suggested by anybody in the State Department, that there is anything in this correspondence of such a delicate, diplomatic nature that it can not be published and I can not conceive of how there could be anything of that kind.

Mr. CLARKE. You do not conceive it, but it is in the evidence, because a representative of the State Department appeared here and said that.

Mr. TEN EYCK. If you went back to the Secretary of State, as you suggest, and he reiterated what he has already stated in this letter which was read just a few moments ago, would the committee then accept his statement as final and be in accord with him?

Mr. WARD. If he would make the statement in a definite way and say he had no more information he could give us, I would take it as final.

Mr. PURNELL. This letter which has been presented from the Secretary of State, in my judgment, is very indefinite, uncertain, and evasive. What its purpose is, I do not know. I do not attempt to speak for him, but I doubt if the Secretary of State has ever heard of these companies. It seems to me the logical thing to do is the thing which has been suggested, that is, appoint a committee of one who is known to be opposed to it and one who is known to be for it, and then let the chairman select another, and have them go to the Secretary of State or such other sources of information as may seem prudent and wise in order to get this information. I do not know what I am going to do on this

question when it comes to final action. I have opposed it, but I have said consistently that if anybody can show me that I am wrong, I do not want to be. The attitude of keeping men out of money that should be paid them who have in good faith entered into a relation with the Government, whether there is a contractual or legal liability, or not, but I want to be sure in my own mind, and I do not know with the evidence we have got now that we have all the information it is possible to get from the State Department. As Mr. McLaughlin stated a while ago, I blame myself just as much as any other member of the committee because we have not secured this information. I am ready to vote on it and to proceed until we get the information. If there is anything further there, it might change the whole aspect of this case.

Mr. JACOWAY. Mr. Chairman, I want to say this: Somebody has defined a trial as a judicial ascertainment of the truth. Paraphrasing that, I would say that a bill that goes upon the statutes may be defined as a congressional ascertainment of the truth. Now, as far as I am concerned, taking this record and holding it up and looking at it from its all four corners drives me unalterably to the conclusion that this bill ought to be reported out by this committee, but since there has been some suggestion here that possibly the record is incomplete and that perchance or perhaps or maybe the testimony that this committee has is not the entire record and not the entire proof, I am going to make a suggestion, out of abundance of caution, that we let a committee be appointed, and if there are any other facts that ought to be brought out before this committee that have not been brought out, if there is anything being held in the background, if there is any additional testimony that can be adduced here, to show that this claim against the Government is not bottomed upon that which is right, moral, and just, then as a member of this committee I would fight this bill as vigorously as I would fight anything I could fight. I do not think we ought to go on the floor of the House with any doubt resting in the mind of a single man on this committee that perhaps something is back that has not been brought out. I want to support the motion made by the gentleman from Pennsylvania that a committee be appointed. Let that committee go down there and examine the record, if they can get at it, and then when we have gotten that record, if the facts adduced by the present Attorney General and if the facts adduced by the former Attorney General, dovetail one with the other, as they seem to do, then I believe that the fair, square, duty of this committee is to report this bill out, because I am about governments like I am about men, if men owe debts they ought to pay them, I care not how onerous it may be upon them or what burden it may place upon them, and if the Federal Government owes this claim, I think the Federal Government should be held to the same high standard of paying its debts that individuals are held to.

Mr. CLARKE. I say, "Amen," to that.

Mr. PURNELL. I second Mr. Ward's motion.

Mr. WARD. I would like to add to that motion that the committee which is appointed report back here one week from to-day, on the 25th of January.

Mr. McLAUGHLIN of Michigan. My idea in having a committee appointed was that it should do this promptly.

Mr. CLARKE. I think it is quite an imposition to keep these men down here day after day who come here from quite a distance.

Mr. ASWELL. I might state that earlier in the session the committee decided not to hold any hearings next week on account of the Farmers' Conference.

Mr. WARD. Then they could report back on the 1st of February.

Mr. PURNELL. Why wait that long? Can we not get this information in a day? Let us get right after this thing. I have some other arrangements, just as the other members have, and I want to take up some other matters.

Mr. WARD. Let us have them report back as quickly as they possibly can, and I would like to add to the motion and have it read in this way:

I move that the chair appoint a committee of three, one opposed to the resolution, one in favor of the resolution, the third member to be picked by the chairman, which committee will proceed to the State Department and get this information and report back to this committee Saturday morning at 10 o'clock.

(The motion, being duly seconded, prevailed.)

The CHAIRMAN. The chair will announce that he has conferred with several members of the committee and appoints as members of this committee Mr. McLaughlin of Michigan, Mr. Tincher, and Mr. Jacoway.

Mr. TINCHER. Mr. Chairman, I would like to ask Mr. Post a few questions.

STATEMENT OF MR. JAMES H. POST, PARTNER OF B. H. HOWELL, SON & CO.

Mr. TINCHER. Mr. Post, your previous testimony is in the record.

Mr. POST. Yes, sir.

Mr. TINCHER. I have some additional questions I want to ask you.

Mr. POST. I will be very glad to answer them, if I can, of course.

Mr. TINCHER. As I understand it, B. H. Howell, Son & Co. is a copartnership?

Mr. POST. Yes, sir.

Mr. TINCHER. Who are the copartners?

Mr. POST. Frederick H. Howell, Thomas A. Howell, and James H. Post.

Mr. TINCHER. You are James H. Post?

Mr. POST. I am James H. Post; yes, sir.

Mr. TINCHER. What other business are you in, Mr. Post, except your connection with B. H. Howell, Son & Co., or were you in at the time of these transactions?

Mr. POST. I am not in any other business except I am a director of quite a number of companies, banks, and other organizations, insurance companies, etc., a great many of them, and I do not believe you would want a list of them.

Mr. TINCHER. Yes; I want, for the benefit of the record, considerable information along that line.

Mr. POST. I will be very glad to furnish it, if I can.

Mr. TINCHER. Do you know the Cuban-American Sugar Co.?

Mr. POST. Yes, sir; I have been one of the officers of it for 20 years.

Mr. TINCHER. What business is the Cuban-American Sugar Co. engaged in?

Mr. POST. They produce raw sugar in Cuba. They have six estates in Cuba.

Mr. TINCHER. And you are one of the officers in that company?

Mr. POST. Yes, sir.

Mr. TINCHER. And you own six estates down there and produce sugar in Cuba?

Mr. POST. Yes, sir.

Mr. TINCHER. And that condition of affairs existed at the time of this whole transaction?

Mr. POST. Yes, sir.

Mr. TINCHER. Is Thomas A. Howell the vice president of that company?

Mr. POST. Yes; he is.

Mr. TINCHER. You are the president, are you not?

Mr. POST. I am; just temporarily, because the president, Mr. R. B. Hawley, died about two weeks ago, and they had to fill the position temporarily. I have never been president before. Mr. Hawley organized the company and died very suddenly in New York about two weeks ago.

Mr. TINCHER. That company owns vast estates of land, or has control of vast estates of land, that produce sugar in Cuba?

Mr. POST. Yes, sir; large estates. I would not say "vast."

Mr. TINCHER. And you sell that sugar?

Mr. POST. We sell that as raw sugar to the various refiners here and throughout the world.

Mr. TINCHER. And then there is the National Sugar Refining Co., of New Jersey, with offices at New York. Who is the president of that company?

Mr. POST. I am.

Mr. TINCHER. And Mr. Howell, of your copartnership, is he connected with it?

Mr. POST. Yes; he is one of the members of the copartnership.

Mr. TINCHER. That is this little company that has this claim here. He is a director and vice president also of the National Sugar Refining Co., of New Jersey. Is he not?

Mr. POST. Yes, sir; I think he is.

Mr. TINCHER. The Cupey Sugar Co.; where is that company; do you know?

Mr. POST. That is a small estate in Cuba, owned by another group of men.

Mr. TINCHER. Thomas A. Howell is treasurer of that company?

Mr. POST. I am not sure just what office he holds. I am not an officer of it. I do not remember.

Mr. TINCHER. Howell is interested in your partnership?

Mr. POST. Yes.

Mr. TINCHER. And the Colonial Sugar Co.; where is that?

Mr. POST. That is a company that owns the Constantina sugar estate in Cuba and a refinery in Louisiana.

Mr. TINCHER. Who is the president of it?

Mr. POST. Mr. John Farr, I think, is president.

Mr. TINCHER. Who is the vice president and treasurer?

Mr. POST. I think I am, sir.

Mr. TINCHER. As I understand it, B. H. Howell, Son & Co., of which you and Howell and Howell are the owners—

Mr. POST. No; we are not the owners of these sugar companies. We are the officers. We have a small interest.

Mr. TINCHER. I mean the B. H. Howell, Son & Co. You own that little company.

Mr. POST. Yes, sir. It is not a company; it is a partnership.

Mr. TINCHER. And you went into this business with the Government to just raise hell with these other companies, of which you are president and vice president, and to reduce the price of sugar.

Mr. POST. No; that was not our purpose. We went into it at the request of the Government to distribute this sugar.

Mr. TINCHER. Now, I want to call your attention to the fact, Mr. Post, that through a lack of information on the part of this committee, this bill was reported on the floor of the House favorably and was passed in the Senate, and was about to be considered and voted upon in the House, with no intimation, as the record will bear me out, and with no direct statement that B. H. Howell, Son & Co. were interested in the sugar business, but that you went into this as a pure side line for patriotic reasons.

Mr. POST. I think, gentlemen, you must be mistaken about that. I tried to be very frank in my statements.

Mr. TINCHER. But you were not asked these questions I am asking you this morning, and you did not state any of these connections with other companies.

Mr. JACOWAY. I beg your pardon, Mr. Tinchler, but let the witness finish before you ask another question. You do not give him an opportunity to complete his answers to your questions.

Mr. TINCHER. I beg your pardon. Now, I want to ask a question or two about Howard Figg, who was formerly connected with the Department of Justice.

Mr. POST. Yes, sir.

Mr. TINCHER. We had some trouble getting him back here to testify, but he finally came back here. He is the man who negotiated this deal with your company for the Department of Justice.

Mr. POST. He was the medium through which it came to us.

Mr. TINCHER. And then he quit the Department of Justice; but his testimony is the principal testimony in the record connecting the Government in any way with these claims. Where did he go when he quit the Government?

Mr. POST. I do not know.

Mr. TINCHER. He resigned on November 15, 1920, and upon leaving the Department of Justice he entered the service of the Cuban-American Sugar Co. of New York.

Mr. POST. Oh, no. He never was connected with the Cuban-American Sugar Co. in any way.

Mr. TINCHER. Did he work for the Underwood Typewriter Co. of New York?

Mr. POST. I do not know. I am not active in the Underwood Typewriter Co.

Mr. TINCHER. You are an officer in it, are you not?

Mr. POST. Mr. Underwood was a personal friend of mine, and two years ago he asked me to go on the board. I had no interest in it. I have 25 shares of stock and he asked me to go on the board of directors, which I declined to do, but they elected me and I have since resigned. My resignation has not been accepted yet, but I have no interest in it except you know how friends sometimes ask you to go on a board, and this was just because I have known him a great many years.

Mr. TINCHER. Of course, a Congressman is often handed information that he can not always rely upon, but my information concerning your connection with the other companies seems to be agreed to by you, and my information was that Figg, upon leaving the Department of Justice, entered the services of the Cuban-American Sugar Co., of New York, of which you were vice president; that he left the Cuban-American Sugar Co. and went with the Underwood Typewriter Co., of New York, in which you are a director, and that he was still with those companies when he was here before this committee.

Mr. POST. I am sure that is not so.

Mr. TINCHER. I do not know; it may be entirely inaccurate.

Mr. CLARKE. He has just testified that he has had no connection with the sugar company and the gentleman testifying has only been a director in the Underwood Typewriter Co. for two years at the request of a personal friend.

Mr. ASWELL. And has resigned that position.

Mr. POST. I don't guess it has been accepted yet because they are trying to keep me.

Mr. TINCHER. I am not in position to know—

Mr. POST (interposing). I would very frankly tell you, if it were so, but I am sure he has no connection with any sugar company that I know of.

Mr. TINCHER. I would like to know at what price the Cuban-American Sugar Co. sold your raw sugar for in 1919.

Mr. POST. Was that one of the years when the Government bought it?

Mr. TINCHER. No; that was a year after the Government bought it.

Mr. POST. I do not know. It varied with the market from time to time. I am not familiar with the details of it.

Mr. TINCHER. As a matter of fact, the price was very good that year, was it not?

Mr. POST. Part of it was, and part of it was very bad, because there was a great difference in the price between certain seasons of that year. Some of it got very high and some of it got very low. I do not know what the average was.

Mr. TINCHER. As to the producers of sugar in Cuba, are there any larger producers of sugar than the Cuban-American Sugar Co. in Cuba?

Mr. POST. Yes, sir; there are quite a number. They have the largest single estate there called the Chatarra Sugar Estate. That is the largest one there, but they have several small ones, too.

Mr. TINCHER. That is the largest individual sugar-producing estate?

Mr. POST. I think it is.

Mr. TINCHER. In Cuba and probably in the world, is it not?

Mr. POST. I do not know about the world. It is the largest in Cuba.

Mr. TINCHER. And Mr. Thomas A. Howell is of sufficient importance in that company to be the vice president of it?

Mr. POST. Yes, sir.

Mr. TINCHER. And you are at present the president of it?

Mr. POST. I have been for two weeks, but that is just temporary. I wish you would understand the circumstances about that. You probably know Mr. Hawley very well. He was in Congress here some years ago from Texas. He has been the managing director and president of that company for 20 years.

Mr. KINCHELOE. Was this Cuban sugar company and these companies that Mr. Tinchler has mentioned, with which you are identified in Cuba, bringing sugar here at the time this Argentine sugar came in, and was that sugar sold in competition with it?

Mr. POST. I have no doubt sugar arrived all through that period just as fast as they could sell it and ship it. That has been the custom for a great many years.

Mr. ASWELL. Did the Argentine sugar reduce the price of that Cuban sugar?

Mr. POST. It had the effect of reducing the prices of all sugar, because it was a time when it was very high—25 or 26 or 27 cents—and this was offered at a great deal less, and it did have an effect through the newspapers and in other ways, much more than you would think 13,000 tons would have, because this country uses about 100,000 tons a week.

Mr. KINCHELOE. The point I am making is this: The sugar from Cuba from the concern in which you are interested was shipped here during the time this Argentine sugar was being sold, and was sold in direct competition with it.

Mr. POST. Yes, sir; sold by that company.

Mr. KINCHELOE. And therefore, if the Argentine sugar was brought here to break the market, it hurt your holdings in these sugar refineries in Cuba.

Mr. POST. Yes, sir; it did.

Mr. KINCHELOE. To that extent.

Mr. POST. Yes, sir.

Mr. TEN EYCK. Will you kindly tell us what benefit your other companies derived from the shipments of this Argentine sugar?

Mr. POST. Of course, you recognize that we do not own the other companies. We just have a small interest in them, and have been connected with them.

The effect of this Argentine sugar was to break the price for all sugar-producing companies.

Mr. TEN EYCK. Then, your companies did not receive any benefit?

Mr. POST. No; they certainly did not receive any benefit.

Mr. JONES. The market really broke before the Argentine sugar arrived, did it not?

Mr. POST. Yes; it started to break, and the fact it was coming had that effect, somewhat.

Mr. JACOWAY. Let me ask you one question right there, because I think that is the crux of this situation: Did the activities of Howell & Co., in your judgment, break the high sugar market?

Mr. POST. I think the importing of this Argentine sugar and the fact that the Government was doing it—

Mr. JACOWAY (interposing). And the fact that they knew it was coming in.

Mr. POST (continuing). And the fact they knew it was coming in, and they expected a great deal more to come in, had the effect of breaking the market for sugar in this country.

Mr. JACOWAY. Then, in your judgment, that was the compelling reason?

Mr. POST. The things that led up to that had more effect than anything else in breaking the sugar market.

Mr. JACOWAY. And it broke from what price to what price?

Mr. POST. It kept going down very rapidly.

Mr. JACOWAY. What was the peak?

Mr. POST. I suppose the highest refiners' price was 23 cents or perhaps up to 26½ cents—it varied in different parts of the country—and it has continued to go down ever since until now it is 2 cents, practically.

Mr. TINCHER. Now, Mr. Post, let us understand this thing thoroughly. This bill passed the Senate twice, and there have been two sets of hearings before the Senate committee. The bill has been reported out of this committee once, and not until this morning has there ever appeared in any record your connection with the Cuban-American Sugar Co.

Mr. POST. I am sure it was entirely unintentional. I answered the questions and did not try to hold back anything.

Mr. TINCHER. Let me call your attention to the way that looks to just a country lawyer. The price of sugar, as Mr. Palmer very properly told us, had mounted until sugar was retailing at 30 cents a pound. The Government was interested in breaking the price of sugar. They wanted to get people who had no connection with sugar transactions and were not interested in sugar at all, so they got B. H. Howell, Son & Co., who were not handling sugar. This was their only sugar transaction. They selected them. Now, let us see who they are. We are looking for a man to break the price of sugar. They picked B. H. Howell, Son & Co. as a governmental agency to break the price. Who is B. H. Howell, Son & Co.? It is a copartnership. Who are the men who own it? They own the biggest sugar-producing farms in the world down in Cuba and the biggest individual sugar-producing plantation in Cuba, and they are the officers in that company. I have always thought—may be you can explain this—that that would be parallel to a judge opening court and calling in the men charged with burglary or larceny or some other crime and saying, "I will appoint you to try one another." It has always seemed to me a rather remarkable coincidence, the connection that these people had with these other companies, since I have learned of it. There may be no foundation for it, but what possible excuse could there be, if they were going to import sugar from the Argentine, using people who would be more directly damaged by breaking the price of sugar than anyone else?

Mr. ASWELL. May I ask Mr. Post a question right here. It seems to me from the questions of Mr. Tinchler and the responses by Mr. Post that he is some considerable sized business man. Now, the Government wanted something done and selected a man whom the officers thought was able to do it. They called on him because of his big business experience. I do not see any objection to that. I do not think that criticism is well founded at all, and may I ask another question? I want to ask Mr. Post, if I may, a question or two. Your interest in these larger companies in Cuba is clear and you have stated it frankly.

Mr. POST. It is very small, though. I would like to have that understood.

Mr. ASWELL. Now, what induced you to import this Argentine sugar in competition with your own business and in competition with friends of yours? Was it the war, or just what was it?

Mr. TINCHER. The war was over.

Mr. ASWELL. I know the war was over, but the spirit of it remained.

Mr. POST. May I explain a little bit my relation to it?

Mr. GERNERD. Let us have your answer to that question, Mr. Post.

Mr. POST. During the war, under the department, the refiners of the country were allotted sugar by the Government, and I was chairman of the committee of all the sugar refiners of the country in distributing this sugar. As you know, it was sold at a very low price and at a very close margin of profit. During the war I was also chairman of the committee to keep the Army and Navy supplied with sugar, and I gave a great deal of time to that. Sugar was scarce, and they appointed a committee here in the department of defense, and I was made chairman of that committee, and I devoted practically all my time to Government work during the war.

They picked out our firm to distribute this sugar. We did not know of it until it had been all arranged with the American Trading Co. We are very large distributors of sugar, refined sugar—recognized as probably the largest distributors of refined sugar in this country. We do not own any sugar; we are commission merchants entirely. We never own any sugar ourselves. We represented the National Sugar Refining Co. in selling the refined sugar. They came to us, and our firm decided we did not want to do it. They urged us to do it as a patriotic duty, and we did it, as the records show.

Now, I want to be frank, and I would like, if I may, to correct one statement that perhaps I had not been clear about. We do not own the raw sugar companies in Cuba. Our partners have some stock interest in it, and I have been active in it with Mr. Hawley and the other partners for a good many years. It started in a very small way, and has grown to a very large producing company.

We twice refused to go into this against our interest. The records and our correspondence with the department, which has been placed on file here, show that we did it only from a sense of duty and after being requested to do so by the Government, which we were all very loyally trying to serve.

Mr. RIDDICK. Let me ask you a question right there. Do I understand that some of your companies were selling sugar at the high profiteering prices, and at the same time your other companies sought to break the market and expected to make a good profit out of the transaction, and then when you did not make a profit you come in here and ask the Government to take care of your losses? Is not that the case?

Mr. POST. We were distributing sugar at that time at about 21 cents. This sugar was bought particularly for canners and preservers. A committee of the canners came to New York and urged us to help them get this sugar to keep their canneries going. It did have the effect of breaking the price, but we were all very willing to have the price lowered for sugar.

Mr. RIDDICK. Were not your other companies selling sugar at the high prevailing prices?

Mr. POST. They were selling raw sugar at the market price, whatever it was, yes. And they were selling refined sugar at the market price, which was considerably lower than could have been secured for it.

Mr. RIDDICK. Then the fact is simply that your companies were selling sugar at profiteering prices, and at the same time you sought to break the market and expected to make a good profit out of that transaction?

Mr. POST. In the refined sugar business there was no profit at times, because the record shows millions of dollars were lost by all the companies in that year, 1919.

Mr. RIDDICK. But at this particular time prices were extremely high?

Mr. POST. Oh, at that time the refiners were paying very high prices for raw sugar, bringing a great deal of it in from Java and anywhere else that they could get it, and their margin of profit was very small.

Mr. RIDDICK. But I understand that some of you people were connected with the production of sugar. They were getting tremendous prices, were they not?

Mr. POST. Only for a little of it, because most of the crop had been sold.

Mr. RIDDICK. But they were getting high prices for some of it?

Mr. POST. For a part of it; yes. I should say that the average price was around 9 cents.

Mr. KINCHELOE. The war being over in 1919, I can not conceive what actuated you to agree to enter into this arrangement with the Government to buy this

Argentine sugar, the very fact of which, you admit, would have the effect of lowering your profits on the sugar you got from Cuba, unless it was that you expected to make a greater profit out of the Argentine transaction which would compensate for the smaller profits you would get out of your sugar from Cuba.

Mr. Post. Under the agreement with the Government we were to have only 1 cent per pound for the cost of distributing the sugar, so that our profit was limited to a very small amount.

Mr. Riddick. Have you any record to show that that arrangement was made?

Mr. Post. Yes; it is on file here.

Mr. JONES. During the period of these negotiations, Mr. Post, a lot of sugar was being shipped in from Cuba, was there not?

Mr. Post. From Cuba, from Java, and from all parts of the world.

Mr. JONES. And this country was using about 100,000 tons a week?

Mr. Post. At that time of the year the consumption would be about that; yes.

Mr. JONES. And you say it was just the bringing in of these 13,000 tons, or a few thousand tons, from Argentina that broke the market rather than these 100,000 tons a week, or something like that, that was being brought in from these other sources—being actually brought in?

Mr. Post. The reason was that they announced that 70,000 tons were coming, and it was just at the peak of the market, almost, when this Argentine matter came up.

Mr. JONES. When we were actually using sugar at the rate of 100,000 tons a week, and it was actually being brought in from all sources, do you think the threat of bringing in two-thirds of a week's supply from some other source had the effect of breaking the market?

Mr. Post. It was an opportune time to do it, because the country began to get fairly well supplied with sugar. This was the immediate thing, I think, that brought it about. Of course, I am only giving you my judgment on it.

Mr. JONES. That just happened to be the straw, though; that would not have done it but for the fact that tremendous quantities were being brought in from these other sources, actually, at that time?

Mr. Post. It was.

Mr. JONES. So, really the main cause was all of this actual sugar that was being brought in?

Mr. CLARKE. And the fact that it was being advertised in the papers that the Government was behind it, and so on.

Mr. JONES. I would like to have the witness's opinion.

Mr. Post. This particular sugar was being offered at a lower price than other sugar was being sold at.

Mr. JONES. Yes; but that would all be licked up in two-thirds of a week?

Mr. Post. Yes; but you can see when you are about at the peak and people commence to hesitate as to whether they want any more, how quickly the market will decline.

Mr. JONES. But the knowledge that all this other sugar was available and could be gotten had much to do with the breaking of the market, did it not?

Mr. Post. Well, it was at higher prices, but it was not known at that time. You may think it strange, but we did not know that this was coming—

Mr. JONES. This sugar from these other sources?

Mr. Post. Yes.

Mr. JONES. And if it had not been actually coming from these other sources, then the threat of bringing in 70,000 tons would not have broken the market, would it?

Mr. Post. The combination of those two things probably would have done it.

Mr. JONES. It was the combination, of course—the combination of actually bringing in all these tremendous supplies from the other sources, together with the additional threat, that caused the break in prices? Is not that true? So that in and of itself the threat of bringing in 70,000 tons, or a portion of the 70,000 tons, was not sufficient to have had any material effect on the market, was it?

Mr. Post. It had more of an effect than it ordinarily would have had, because of the publicity given to it.

Mr. JONES. Yes; but the publicity with reference to 70,000 tons, when the knowledge was general among sugar handlers that we were using 100,000 tons a week—you could publish it from one end of the country to the other and it would not break the market without the additional force of an abundant supply that was just then becoming known?

Mr. Post. That was coming in quite freely at that time; yes.

Mr. JONES. But up to just about that time, or just before, it was not known that there was such a tremendous supply from other sources? Is that true?

Mr. Post. It was not generally known that such a quantity could come from Java.

Mr. JONES. It was not known at that time that these tremendous supplies from other sources were available?

Mr. Post. We did not know, at least, that it would come to this country.

Mr. JONES. So, really, if there had been no Argentine sugar, with these tremendous supplies available from other sources, it would probably have gone down in the course of a few weeks anyway?

Mr. Post. In the course of a few months, as it became known.

Mr. JONES. It would have gone down because of these tremendous supplies from other places, because, like all other things, the price of sugar depends on the law of supply and demand?

Mr. Post. Yes, sir; I think so.

Mr. ASWELL. Did the Government know that?

Mr. Post. No; I think no one knew they were coming here. There were cargoes cleared for Gibraltar and Port Said and other ports, and all at once they commenced to order them to this country because of these high prices here.

Mr. JONES. In fact, the knowledge of that coming just at that time caused sugar to break before any was brought in from the Argentine?

Mr. Post. Within about two months it did.

Mr. JONES. After the Argentine sugar arrived?

Mr. Post. The Argentine sugar was delayed in arriving here, and that made trouble, too.

Mr. JONES. They had the threat of this Argentine sugar coming here, and it became known that there were tremendous supplies available in other places?

Mr. Post. That had something to do with it; yes.

Mr. KINCHELOE. Mr. Post, I want to try to get your viewpoint as a business man, if I can, of this transaction. I am frank to say I do not understand it. Of course the purpose of the purchase of this Argentine sugar to bring to this country was to break the market. That is conceded here. That was the purpose of it, to break the market for the benefit of the consumers of America. You, of course, knew that?

Mr. Post. That was the purpose of it; yes.

Mr. KINCHELOE. Now, with your holdings of sugar in Cuba, and with the war over, eliminating the patriotic end of it, knowing that the purpose of buying this Argentine sugar was to break the market, I can not understand your viewpoint as a business man. I can not understand why you should go into an arrangement of that kind unless you felt that the profits you would get out of the Argentine purchase would yield a greater dividend than you would get from your sugar in Cuba. What was really your purpose in it?

Mr. Post. In the first place, B. H. Howell & Sons Co. never owned any sugar; we are commission merchants.

Mr. KINCHELOE. But the more sugar you handle the more you make?

Mr. Post. We get a commission; yes. We had not got over the feeling of loyalty to the Government that we had in the war, and the feeling that we ought to cooperate in every way we possibly could. That may seem very strange to you, but that was our purpose.

Mr. KINCHELOE. But you knew it was going to hurt your Cuban sugar business?

Mr. Post. We knew it would hurt the Cuban sugar business to some extent; yes.

Mr. KINCHELOE. And of course you expected to get a profit out of the Argentine proposition?

Mr. Post. No; we expected to get only 1 cent per pound, which was to cover our expenses, leaving us perhaps a quarter of a cent a pound.

Mr. KINCHELOE. Would there have been more than you would have gotten out of your Cuban sugar?

Mr. Post. Oh, no.

Mr. JACOWAY. What is that commission?

Mr. Post. The commission is 1 per cent on the sale of sugar. On the Argentine sugar our commission was to be 1 cent a pound.

Mr. TINCER. Now, Mr. Post, I have several other questions I want to ask you. First, I want to go back to Cuba again. Your company has raised some sugar down there. What do you do with that sugar?

Mr. POST. It is shipped to this country and to other parts of the world to be refined.

Mr. TINCHER. Do you sell any to the National Refining Co. of New Jersey?

Mr. POST. Sometimes they buy it.

Mr. TINCHER. Then they refine it?

Mr. POST. They refine it; yes, sir.

Mr. TINCHER. And when the National Refining Co. of New Jersey gets through refining it they pay B. H. Howell & Co. a commission for distributing it?

Mr. POST. Yes, sir.

Mr. TINCHER. That is, they raise the sugar, one company, and refine the sugar in New Jersey, another company, and distribute the sugar in New York through a copartnership?

Mr. POST. May I explain; there are probably 4,000 stockholders in the Cuban-American Sugar Co. and about 3,000 in the National Refining Co. They are not the same people; they are scattered very largely.

Mr. TINCHER. It is just a coincidence that the officers of the three companies happen to be the same?

Mr. POST. Yes. I have been in the business 40 years, and I have been active in developing sugar companies in Cuba and in this country.

Mr. TINCHER. Now, this sugar crop of 1919 went on the market in December, 1919?

Mr. POST. Yes, sir.

Mr. TINCHER. No; it was after the 1920 election. When did this transaction occur?

Mr. REED. The transaction was in May, 1920.

Mr. TINCHER. Now, when this transaction commenced in the ordinary course of business the Cuban-American Sugar Co. would no doubt have disposed of most of their sugar for that year?

Mr. POST. Not necessarily most of it; they would have disposed of part of it. I do not know the facts myself as to that.

Mr. TINCHER. I thought you said they had cleaned up by May?

Mr. POST. They finished their crop making; but they do not sell their sugar until through the month of July.

Mr. TINCHER. Now, will you please tell us in the record the number of pounds, or the quantity, of sugar produced by the Cuban-American Sugar Co. that year, when they disposed of it, and to whom?

Mr. POST. Yes; I will try to secure that information for you and send it.

Mr. TINCHER. Being president of the company, I have no doubt you can get the information. If you can not, probably Vice President Howell can.

Now, this Argentine sugar that we are talking about was bought in the Argentine at around 13 cents a pound, was it not?

Mr. POST. I am not sure as to that. The facts are all in the record here.

Mr. REED. It was bought at from 13 to 14 cents.

Mr. TINCHER. Do you know the ship rate from Argentine to our ports.

Mr. POST. Yes; we have it at our office, of course. I haven't it here with me.

Mr. TINCHER. I suppose I should ask this other gentleman [Mr. Franklin] about that; I want to go into some detail on those questions.

Now, you say that the New Niquero Sugar Co. is a Cuban company?

Mr. POST. That is in Cuba, too; a small estate near Manzanillo.

Mr. TINCHER. Now, do you remember whether at that time you had sold your raw sugar or not?

Mr. POST. I do not know. There are other officers who attend to that.

Mr. TINCHER. Will you tell us in the record the amount of sugar produced by that company for 1919, when it was sold, and the price at which it was sold?

Mr. POST. Yes, sir.

Mr. TINCHER. And the Colonial Sugar Co.?

Mr. POST. That is a part of the Cuban-American Sugar Co.

Mr. TINCHER. And the Cupey Sugar Co.?

Mr. POST. I will put all the companies in that we represent.

Mr. TINCHER. Now, Mr. POST, when you were before this committee before I remember asking you if there were any other matters connected with this transaction at all that you thought the committee ought to have the benefit of.

Mr. POST. I am very sure I would have answered it if I knew of it.

Mr. TINCHER. Do you mean to say to this committee, Mr. POST, that your connection and the connection of these several companies, and the fact that not

only were B. H. Howell & Sons distributors for a small commission, but you as an officer in that company were interested to the extent you are in the production of sugar—it would not have been material for the committee to have had that?

Mr. POST. No. It apparently did not occur to me and does not occur to me now, what bearing that had upon that particular matter.

Mr. TINCHER. Do you think that the Senators that voted upon this bill were not necessarily entitled—

Mr. CLARKE. Oh, Mr. Tinch, I object to his drawing comparisons between the Senate and the House. You have no right to ask any witness to draw a comparison between the Senate and the House.

Mr. TINCHER. I would not ask any witness to draw such a comparison.

Mr. CLARKE. But that is what you are doing. Don't go into any comparisons without a vote of the committee, please.

Mr. TINCHER. I will submit my questions in writing before asking them, shall I?

Mr. CLARKE. I would like to have some of them; I think it would help.

Mr. TINCHER. I am candid to say to the gentleman from New York that until this morning I had nothing but a rumor and what little information I was able to dig out about these connections which Mr. Post very candidly acknowledges. Did you know about them before?

Mr. CLARKE. You are examining the witness here. Address your conversation to him.

Mr. TINCHER. Then let me examine him.

Mr. CLARKE. Go ahead in a fair and square way, and I am with you.

Mr. TINCHER. I submit, Mr. Chairman, if I am unfair in the examination of the witness I want the unfairness pointed out.

Mr. CLARKE. That is what I am trying to do.

Mr. TINCHER. Mr. Post, as a business man, don't you think that a man before he votes on this bill is entitled to the information I have got from you here this morning concerning these other companies?

Mr. POST. I am sorry I can not agree with you, but I can not see what that particular matter has to do with it. I would very frankly tell you if I did. Everybody has information that we are very large sugar merchants for the account of other people. There has been no secret about it. During all the war I was one of those who worked for the Government on the sugar problem, and we did our work well.

Mr. ASWELL. Is that the reason the Government selected you?

Mr. POST. The Government secured sugar for this country at very low prices during those two years, at a very small margin of profit to the producer. It was sold the first year at 4½ cents and the next year at 5½ cents. I think the year of this panic they offered to sell at 6 cents. It is on record here in our Government that they offered to sell the crop of 1919-20, I think it was, at 6 cents per pound, and the Government declined to buy it.

At that time the crop was short in Cuba, it was short in other parts of the world, and the high prices brought sugar from all these other places—Java, India, and all over the world—and that overstocked this country in the fall of that year. When this particular sugar was bought—in April and May—it was very scarce, but in September, October, and November, when this other sugar commenced to arrive, it commenced to drop.

Mr. TINCHER. We sold some sugar that year in France, didn't we?

Mr. POST. Yes. The first contract was with the English and French Governments. I was chairman of the committee that helped to arrange it. The second year they did the same thing. The third year they tried to do it and our Government said, "No"—it is a matter of record—"let it take its course."

Mr. JACOWAY. I do not know whether this is germane or not, but I do know that a number of concerns lost money—thousands of dollars. Do you know what the effect on the market was of the finding of many thousands of tons of Mexican cube sugar?

Mr. POST. No; I do not. There could not have been a great deal of that, but it came from every part of the world.

Mr. JACOWAY. There was a great deal of it came here. It came out of Mexico, and nobody knew of it before. It was a source they had no idea of. The question I wanted to ask was whether it was thrown on the market about the same time.

Mr. POST. Yes; nearly all of it got here within two or three months of the same time.

Mr. JONES. And those are the things that broke the market?

Mr. POST. They helped to do it; yes, sir.

Mr. TINSCHER. The National Sugar Refining Co. of New Jersey—how much sugar do they refine per annum?

Mr. POST. They refine about 12,000 tons per week when they are running full capacity.

Mr. TINSCHER. So the sugar you were bringing in from Argentina would have taken them about a week to refine?

Mr. POST. Yes. In this country we are only very small sugar refiners. This Argentine sugar was refined.

Mr. Chairman, may I ask the permission of the committee to place in the record this letter which we wrote in October, 1920? It is already in evidence.

The CHAIRMAN. Without objection, it will be inserted in the record.

(The letter submitted by Mr. Post is here printed in full, as follows:)

OCTOBER 7, 1920.

HON. HOWARD FIGG,

Assistant Attorney General, Department of Justice.

Washington, D. C.

DEAR SIR: We desire to submit the following brief memorandum concerning the purchase of 13,900 tons of Argentine granulated sugar at the request of the Department of Justice for the purpose of distribution to canners, preservers, and consumers at the direction of that department. We entered into this business reluctantly, as you know, and at the special solicitation of the Department of Justice, because we wished to cooperate in the endeavors of the Government to increase the supplies of imported sugars and to secure an equitable disposition thereof. It has never been the custom of our firm to engage in the importation of foreign white sugars, as such course is largely opposed to our interests. While our activities under the direction of the Department of Justice have been conducive to the present decline in the price of sugar, with the resultant benefit to the consumer, unless equitable relief is afforded us our endeavors to cooperate with the Government in this matter will involve our firm in a heavy financial loss. We would, therefore, submit briefly the following facts:

The sugars were not purchased by us but by the American Trading Co., the American Trading Co. being informed by the Department of Justice that arrangements would be made for the distribution of these sugars by a representative American house. Our first knowledge of the matter was when a representative of the Department of Justice called upon our Mr. Post and solicited help in the distribution of these sugars.

We hesitated to go into this matter, which was quite foreign to our policy and the usual course of our business, but finally agreed to do so in order to assist the department in its efforts to relieve the shortage of sugar. Thereafter, at an interview with a representative of the American Trading Co., on May 14, 1920, it was agreed that our firm should go joint account with the American Trading Co. in the purchase of these sugars, at the request of the Department of Justice and subject to their orders and directions as to distribution. We were informed at this time that it was the intention of the Department of Justice to secure, through the Department of State by the ambassador at Buenos Aires, a permit for the exportation of 30,000 tons of granulated sugar from the Argentine, and it was contemplated that this amount would be purchased under the joint arrangement above set forth.

The American Trading Co. had opened a credit at Buenos Aires for this transaction in the sum of \$7,500,000, and we supplemented this by opening a credit at this time for \$6,000,000, or a total credit was established for the purchase of these sugars of \$13,500,000. All of the sugars were to be purchased in the name of the American Trading Co.

One week after our agreement to undertake this business a decree of the President of the Argentine Republic was published, under date of May 22, 1920, permitting the exportation of 100,000 tons of sugar, but placing restrictive conditions upon the same, which made it impracticable to export the sugar as contemplated, and in view of this, having already purchased 13,900 tons, no further purchases were made. The Department of Justice thereupon took the matter up with the Department of State to secure a modification of this decree so as to permit the exportation of the sugar already purchased. These negotiations continued until June 14, and up to that time no distribution of sugars

could be made by us as we had no certainty that the sugars would be exported. The permit for such exportation was not actually delivered until June 26.

The Department of Justice thereupon authorized us to offer these sugars to canners and preservers of fruits and vegetables, and in accordance with its directions the sugar was offered to this trade upon the basis of the price approved by the Department of Justice. In this entire matter all of the terms of the offering of these sugars were approved by the Department of Justice, the price being fixed by it at cost delivered in New York, plus 1 cent to cover expenses and compensation for distribution and 1 cent to cover expenses and compensation for purchase. The cost was necessarily subject to certain estimates and the trade was informed in each case that if the cost proved less, a proportional credit would be made to the purchaser. A very small quantity of the sugar so offered was taken by the canners and preservers, largely owing to the fact that, in the meantime, through the efforts of the Department of Justice, arrangements had been made with the refiners to supply the requirements of the trade during the entire canning season.

On June 29, at a conference at our office, the Department of Justice advised us that it would approve a plan of offering these sugars to the jobbing trade under a plan of allotment then outlined by the department, and in accordance with the terms then suggested, of a circular letter and contract. It was our judgment at that time that the condition of the sugar market warranted the free and unrestricted offering of these sugars to the trade in general, but since we regarded ourselves simply as servants of the Government in this matter, acting entirely under its directions and orders, we complied with its requirements. Therefore, at once, in accordance with said suggestions, we drew the form of letter and contract, together with a list of jobbers throughout the country, and the amounts to be allotted to each jobber to whom such letters were to be sent, and forwarded the same to the Department of Justice at Washington for its approval. We received a letter from the department under date of June 30 approving the form of letter and contract and the list of jobbers and quantities allotted, making, however, certain additions and amendments to the letter and form of contract. On July 2 the letter and form of contract incorporating the amendments suggested were sent to the jobbers as per the approved list. Copies of that letter and contract are hereto annexed. Only 19 out of the total list of about 72 jobbers accepted the allotments, leaving approximately 9,000 tons of sugar unsold and on hand. It was not obligatory on the part of the jobbers to accept this allotment, as the letter (a copy of which is annexed hereto) plainly states.

Because of the facts set forth, our firm has been involved in a very heavy financial loss, from which, it seems to us, every requirement of justice calls for relief by the Government, whose activities we endeavored to serve, for the following reasons:

First. The purposes of the Government, through the efficient cooperation of its departments, have been fully accomplished, namely, the increase in the supply of sugar and the reduction in price. The present transaction has been largely conducive to this end, not entirely because of the quantity of sugar involved, but because of the very wide publicity given to this importation through governmental agencies.

The benefit to the consumer has been out of all proportion to the loss involved, but it would be repugnant to all sense of justice that this loss should fall on two commercial houses solely because they had given their facilities to the Government for this social purpose.

Second. This business was undertaken in view of the statements of the Department of Justice that assurances had been given by the Argentine Government to the American Government that these sugars could be exported. They were therefore "prompt" sugars, in the purchase of which little risk could be involved. It was not our intention, nor that of the department, that we should be placed in the position of speculating in long-term sugars without hope of profit—save what amounts to a nominal commission fixed by the department—and without guaranty against loss. But the decree of the President of the Argentine Republic coupled the permission of export with the condition that a special type of sugar, known as "Pilet" sugar, should be deposited with the minister of hacienda in an amount equivalent to 30 per cent of the sugar exported. As we had no means of obtaining such sugar, the condition made the export of the purchased sugar impracticable. The injustice of this condition, in view of the assurances that had been given by the Argentine Government, was apparent, and the State Department secured a modification of this decree; but the unavoidable delay occasioned by this unexpected difficulty resulted in our

being unable to offer these sugars as planned, and the total amount had to be offered to the trade at one time, more than two months after they had been purchased. We submit that this loss should not be left to rest upon our firm, who have acted entirely in a ministerial capacity to serve the requirements and purposes of the Government in this matter.

Third. Our house neither sought the business nor acted in its own initiative or judgment in the entire matter. It was acting solely and passively as the servant of the governmental departments in the whole transaction. It was therefore due to no inattention or fault whatsoever on the part of our firm that this loss was involved, but the business was brought to us entirely by the Government, undertaken at its solicitation, and every step of the transaction was taken pursuant to the Government's approval.

Annexed hereto is a statement of the losses incurred in this matter, which fall equally upon the American Trading Co. and ourselves, and which are based upon the cost of these sugars, certain expenses and charges now being incurred in connection therewith being estimated, and the market price of said sugar as of this date.

Respectfully submitted.

B. H. HOWELL, SON & CO.

Mr. REED. Mr. Post, Mr. Tincher has referred to the fact that you appeared before the committee and states that you did not disclose in any way that you represented any other sugar companies. I wish to call attention to the fact that in your testimony in the hearings of January, 1921, at page 65, you stated:

"We represent the sugar producers and sugar refiners, and therefore we never buy or sell sugar for our own account. We did this at the request of the Department of Justice, and we agreed to distribute it as they might direct."

That is a matter of record. In your statement to the committee in January, when you stated you represented the sugar producers and sugar refiners, did you not assume that that was a matter of public knowledge?

Mr. POST. Yes, sir; it is all very well known.

Mr. REED. I simply wish to correct the record in that respect and to call attention to the fact that you did state that you represented other companies. It is in the record on page 65.

Mr. TINCHER. I am frank to say to you that this morning is the first time I have had—and, I think, the average member of the committee—any proof that you were connected in any way or that the other members of B. H. Howell & Son were in any way connected with any other sugar-producing companies in Cuba.

Mr. POST. I am very glad, then, that I made the statement I did at that time.

Mr. REED. He stated that he represented sugar producers and sugar refiners. Mr. Post, I think, stated that very frankly.

Mr. RAINEY. It is unfortunate, Mr. Post, that the Government did not have more men like you.

(Then follows statements subsequently furnished by Mr. Post.)

B. H. HOWELL SON & CO.,
New York, January 26, 1922.

HON. GILBERT N. HAUGEN,

Chairman of the House Committee on Agriculture,
House Office Building, Washington, D. C.

DEAR SIR: In accordance with the request made upon me by Mr. J. N. Tincher when I was testifying on January 18, 1922, relative to House joint resolution 78 (S. J. Res. 12), I inclose herewith the following statements for the information of the committee:

List of companies in which I am director and/or official.

Sales for 1920, the National Sugar Refining Co. of New Jersey.

Raw sugar sales, crop 1919-20, the Cuban-American Sugar Co.

Sugar sales during crop 1919-20, the Cupey Sugar Co.

Sugar sales during crop 1919-20, New Niquero Sugar Co.

Memorandum of quantity of sugar on hand May 10, 1920, Central Cupey Sugar Co.

Memorandum of quantity of sugar on hand May 10, 1920, National Sugar Refining Co. of New Jersey.

Memorandum of quantity of sugar on hand May 10, 1920, the Cuban-American Sugar Co.

Yours, truly,

JAMES H. POST,
Partner of B. H. Howell Son & Co.

JANUARY 24, 1922.

Post, James H., partner of the firm of B. H. Howell Son & Co., sugar commission merchants, No. 129 Front Street, New York City.

Alliance Realty Co., director.

American Colonial Bank of Porto Rico, director.

American & Foreign Marine Insurance Co., director.

Aquirre Sugar Co., Porto Rico, director.

American-Hawaiian Steamship Co., director.

Atlantic Mutual Insurance Co., trustee and finance committee.

Cuban-American Sugar Co. (and its subsidiary companies), director and president; Chaparra Railroad Co., vice president; Chaparra Sugar Co., vice president; San Manuel Sugar Co., vice president; Colonial Sugar Co., vice president; Tinguaro Sugar Co., vice president; Unidad Sugar Co., vice president; Cuban Sugar Refining Co., vice president; Mercedita Sugar Co., vice president.

Fajardo Sugar Co., Porto Rico, director.

Guantanamo Sugar Co., president and director.

Holly Sugar Corporation, director.

London Assurance Corporation, trustee.

National City Bank of New York, director.

National Sugar Refining Co. of New Jersey (and its subsidiary companies), president and director.

New Niquero Sugar Co., president and director.

Terminal Warehouse Co., director.

Title Guarantee & Trust Co., trustee.

United States Lloyd's (Inc.), director.

United States Casualty Co., director.

United States Life Insurance Co., director.

West India Sugar Finance Corporation, director.

Underwood Typewriter Co., director.

Williamsburgh Savings Bank, trustee.

JAMES H. POST.

Sales for 1920 by the National Sugar Refining Co. of New Jersey.

	Pounds.	Value.	Average price.
			<i>Cents.</i>
January.....	91,965,300	\$12,220,140.14	13.2877.
February.....	82,858,478	10,465,210.19	12.6302
March.....	136,584,361	17,379,071.45	12.7241
April.....	76,288,019	11,844,612.69	15.5261
May.....	91,147,073	16,369,892.95	17.9618
June.....	125,291,614	25,891,970.67	20.6654
July.....	108,506,419	23,336,197.36	21.4950
August.....	58,343,367	12,375,885.87	21.2122
September.....	47,688,004	6,650,619.96	13.9459
October.....	77,378,816	8,896,264.78	11.4970
November.....	60,965,126	6,434,734.92	10.5548
December.....	61,899,414	5,049,802.67	8.1581
Total.....	1,018,977,091	156,934,403.65	.....

WARD SUGAR RESOLUTION.

Rare sugar sales by the Cuban-American Sugar Co., crop 1919-20.

Date of contract.	Sold to—	Number of bags.	Price.	Steamer.	Sailing date.
1919.			<i>Cents.</i>		1920.
Aug. 13	Colonial Sugars Co.....	103,120	16.50	Various.....	Feb. 1
16	National Sugar Refining Co.....	4,005	16.50	Munaires.....	May 9
16	Lamborn & Co.....	16,223	16.50	Wachusett.....	Apr. 9
18	do.....	54,001	16.50	Various.....	Feb. 17
Sept. 17	Hanibal Mesa.....	18,609	16.50	Millinocket.....	Jan. 1
22	National Sugar Refining Co.....	46,129	16.50	Various.....	May 27
Dec. 19	do.....	15,000	12.00	Lake Alvada.....	Apr. 27
19	Colonial Sugars Co.....	10,000	12.00	Lake Otisco.....	Jan. 1
1920.					1919.
Jan. 2	National Sugar Refining Co.....	19,740	11.50	Lake Marion.....	Dec. 24
7	Warner Sugar Refining Co.....	21,500	11.75	Lake Glebe.....	Dec. 29
8	American Sugar Refining Co.....	40,600	11.75	Munorway.....	1920.
20	do.....	14,280	11.75	Everglades.....	Jan. 15
22	National Sugar Refining Co.....	16,000	12.00	Lake Benton.....	Jan. 21
22	do.....	20,100	12.00	Lake Marion.....	Jan. 26
24	do.....	50,000	12.00	Munindies.....	Jan. 25
24	Colonial Sugars Co.....	15,000	12.00	Lake Sanford.....	Jan. 26
Feb. 2	American Sugar Refining Co.....	15,200	12.00	Lake Faresman.....	Feb. 3
18	Royal Commission.....	35,000	9.25	Lubeck.....	Jan. 30
18	do.....	35,000	9.25	Trekieve.....	Jan. 28
26	American Sugar Refining Co.....	22,400	9.25	Lake Beacon.....	Mar. 22
26	Czarnikow-Rionda Co.....	39,000	9.25	Munrio.....	Apr. 25
26	American Sugar Refining Co.....	51,300	9.25	Munaries.....	Feb. 12
Mar. 2	Federal Sugar Refining Co.....	35,000	10.25	Mundale.....	Feb. 13
Apr. 9	National Sugar Refining Co.....	42,195	16.25	Munaires.....	Feb. 19
12	do.....	47,048	17.00	Munindies.....	Feb. 27
Feb. 26	Colonial Sugars Co.....	15,000	9.50	James S. Whitney.....	Apr. 9
Mar. 26	do.....	13,500	9.50	Lake Orange.....	Apr. 12
Apr. 28	National Sugar Refining Co.....	3,651	18.50	Fram.....	Mar. 29
May 5	do.....	20,000	18.50	Crathorne.....	Apr. 1
12	do.....	33,000	19.00	Munwood.....	Apr. 28
15	do.....	32,500	20.50	Munplace.....	May 5
15	Colonial Sugars Co.....	8,783	9.50	Lake Gardner.....	May 12
28	National Sugar Refining Co.....	52,380	19.50	Munerie.....	May 15
June 30	do.....	36,400	17.25	Munarden.....	May 19
July 6	do.....	19,956	17.25	Craycroft.....	May 28
7	do.....	34,400	17.50	W. D. Munson.....	June 30
16	do.....	20,000	17.50	Coquina.....	Do.
16	do.....	24,500	17.50	Generalkonsul Pal-lison.....	July 4
16	do.....	10,000	17.25	Lake Faresman.....	July 7
16	Colonial Sugars Co.....	3,500	15.50	Tuscan.....	July 14
23	National Sugar Refining Co.....	23,428	15.50	Lake Girth.....	July 18
28	do.....	35,500	15.25	W. D. Munson.....	July 22
29	do.....	7,200	15.25	Munindies.....	July 26
Aug. 3	do.....	15,440	15.25	Lake Decha.....	Aug. 2
6	do.....	22,600	15.00	Glorietta.....	Aug. 7
16	do.....	26,200	12.00	Munplace.....	Aug. 14
18	do.....	36,700	12.00	Munardan.....	Aug. 18
Sept. 22	Czarnikow-Rionda Co.....	29,200	9.75	Mundelta.....	Sept. 2
	Total.....	1,310,088			

¹ F. o. b.² C. and .

Sugar sales by the Cupey Sugar Co., crop 1919-20.

Date of sale.	Price.	Bags sold.	Sold to—	Date of shipment.	Steamer.
1919.	<i>Cents.</i>			1920.	
Aug. 16	¹ 6½	21,453 Cuba centrifugal	National Sugar Refining Co.	Jan. 13	Carib (3,200 bags).
				Jan. 27	Lake Farisman (6,000 bags).
				Feb. 27	Lake Gormanian (4,453 bags).
Dec. 4	² 14	3,500 turbinados.....	C. R. Kheiralla.....	Mar. 27	Copalgrove (7,800 bags)
					Vildfugl.
1920.				1919.	
Jan. 5	² 12	3,600 Cuba centrifugal.	National Sugar Refining Co.	Dec. 31	Lake Superior.
				1920.	
7	² 12	5,381 Cuba centrifugal..	Arbuckle Bros.....	Jan. 6	Taunton.
28	² 12	2,000 Cuba centrifugal..	Pennsylvania Sugar Refining Co.	Jan. 28	Do.
Mar. 19	² 11½	8,000 Cuba centrifugal..	National Sugar Refining Co.	May 4	Altomaha.
Apr. 9	² 18	3,390 turbinados.....	Goodwin Preserving...		Brighton.
11	² 18½	7,500 Cuba centrifugal..	National Sugar Refining Co.	Apr. 19	Contoocook.
19	² 18½	5,000 Cuba centrifugal..	do.....	May 9	Glyndon.
June 8	² 19	8,000 Cuba centrifugal..	do.....	June 8	Callabasas.
July 16	² 17½	8,000 Cuba centrifugal..	do.....	July 15	Do.
Aug. 6	² 15	8,000 Cuba centrifugal..	do.....	Aug. 7	Glendola.
Nov. 5	² 6.50	2,909 Cuba centrifugal..	do.....	Oct. 29	Cananova.
Oct. 19	² 8.78	6,000 Cuba centrifugal..	do.....	Oct. 13	Glendoyle.
19	² 8.78	4,114 Cuba centrifugal..	do.....	Oct. 12	Cayo Mambi.
Nov. 13	² 6.50	6,532 Cuba centrifugal..	do.....	Nov. 13	Runa.
Dec. 13	² 4.98	4,580 Cuba centrifugal..	do.....	Nov. 25	Callabasas.

¹ F. o. b.² C. and f.³ Duty paid.*New Niquero Sugar Co., crop 1919-20.*

Date of contract.	Sold to—	Bags.	Price.	Steamers.	Date of sailing, 1920.	Number bags shipped.	Destination.
1919.			<i>Cents.</i>				
Aug. 16	Lamborn & Co.....	16,667	¹ 6½	Wachusett.....	Feb. 9	16,667	Amsterdam.
	do.....	16,667	.....	Dicto.....	Mar. 24	16,667	Do.
	National Sugar Refining Co.	16,666	.....	Lake Benton.....	Apr. 20	16,779	New York.
1920.							
Jan. 15	do.....	11,303	² 12	Commodore Rollins.	Jan. 12	11,303	Do.
20	American Sugar Refining Co.	7,500	² 11½	Everglades.....	Jan. 21	7,500	New Orleans, La.
Feb. 19	Czarnikow, Rionda Co.	17,000	² 9½	Russ.....	Feb. 18	17,026	New York.
18	Royal Commission....	15,000	¹ 9½	Etha Rickmers..	Mar. 19	15,000	Queenstown.
June 8	Warner Sugar Refining Co.	16,516	² 19	Lake Benton....	June 2	16,528	New York.
17	National Sugar Refining Co.	17,500	² 18½	Lake Clear.....	June 28	17,000	Do.
July 13	do.....	17,000	² 17½	Lake Kytte.....	July 8	16,992	Do.
19	do.....	15,533	² 16½	Lake St. Clair...	July 25	15,533	Do.
		167,352	.....			166,995	

¹ F. o. b.² C and f.

Stock on hand May 10, 1920, in Cuba, 65,159 bags.

WARD SUGAR RESOLUTION.

MEMORANDUM.

JANUARY 20, 1922.

From A. Kirstein.

To Mr. J. H. Post, Central Cupey Sugar Co., South America.

Amount of sugar on hand May 10, 1920, 63,301 bags.

_____, Assistant Secretary.

THE NATIONAL SUGAR REFINING CO. OF NEW JERSEY,

January 20, 1922.

The stock of sugar on hand at May 10, 1920, was as follows:

	Tons.
Raw sugar -----	15,806
Refined sugar -----	12,500
Total -----	28,306

THE NATIONAL SUGAR REFINING CO. OF NEW JERSEY,
C. W. CLARK, Comptroller.

THE CUBAN-AMERICAN SUGAR CO.,

New York, January 20, 1922.

Messrs. B. H. HOWELL SON & Co.

DEAR SIR: With reference to our statement of raw sugar sales, crop 1919-20, the price on shipment of 8,783 bags to the Colonial Sugars Co. per steamship *Lake Gardner* May 19, 1920, was due to a difference of opinion relative to the amount of sugar to be delivered against contract of August 13, 1919. An agreement was reached whereby Colonial Sugars Co. was to receive the above quantity at 9.50 C. & F.

As requested, our raw-sugar stock in Cuba on May 10, 1920, was 382,355 bags.

Yours, very truly,

THE CUBAN-AMERICAN SUGAR CO.
W. R. ROEDEL.

(Thereupon, at 12.15 o'clock p. m., on motion duly seconded, a recess was taken until 10 o'clock a. m. to-morrow, Thursday, January 19, 1922.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Thursday, January 19, 1922.

The committee met at 10 o'clock a. m., Hon. James C. McLaughlin of Michigan (acting chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. Voigt, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Tincher, Mr. Williams, Mr. Sinclair, Mr. Hays, Mr. Thompson, Mr. Gerner, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

Mr. ASWELL. Mr Chairman, I ask unanimous consent to proceed for five minutes.

Mr. McLAUGHLIN of Michigan. If there is no objection, you may proceed.

Mr. ASWELL. Mr. Chairman, I want to file a personal protest, as a member of the committee, against the procedure here yesterday. I never saw Mr. Post or heard of him before, and never expect to see him again, but he impressed me as a cultured gentleman. He is 62 years of age, and he impressed me as answering the questions frankly and fairly, and I think this committee lowered its dignity yesterday, and I want to file a protest against that kind of procedure before this great committee. It would appear that Mr. Tincher had some high and mighty sleuth to go about through Mr. Post's back yard and back chamber door and drag out some wonderful secrets about him. I want to read this for the record. This is *Who's Who in America*, a book, as all

of you know, in which is printed the life record of the most prominent men, business men and professional men, and Mr. Tincher himself is in here, and I notice he says he is identified with farming, and that is all right. I want to read here what is a public record in all the public libraries in this country and in almost every private library, to say nothing about the other public documentary evidence. Here is what Mr. Post has printed in Who's Who, and I would like to read it. It covers every single point Mr. Tincher brought out yesterday, and we wasted yesterday and developed nothing but smoke. Mr. Post is 62 years of age, he says. Of course, these statements are all written by the men themselves.

Mr. CLARKE. Or edited by them.

Mr. ASWELL. Yes; or edited by them. I will read this:

"Began as a clerk, and became partner in 1889 of the B. H. Howell Son & Co. He is the president of the National Sugar Refining Co., of New Jersey; director of the National City Bank of New York, Alliance Realty Co., American-Hawaiian Steamship Co., Atlantic Mutual Insurance Co., United States Life Insurance Co., United States Casualty Co.; director and treasurer, Cuban-American Sugar Co. and various other sugar companies; trustee, London Assurance Corporation, Williamsburg Savings Bank, Franklin Trust Co.; president of trustees of the Adelphi College, Brooklyn; trustee, Princeton Theological Seminary, Williamsburg Hospital, Industrial School Association of Brooklyn," and so on.

All that we brought out yesterday, which would seem to be dragging out secrets, is in a public document which is in every public library and in almost every private library in this country, and I protest against that kind of procedure before this committee. That is all I have to say. There is nothing secret about it at all, and there was nothing developed here that was not a matter of public record.

Mr. McLAUGHLIN of Michigan. Are you ready to proceed now?

Mr. FRANKLIN. Yes, sir.

**STATEMENT OF MR. WALTER S. FRANKLIN, VICE PRESIDENT
AMERICAN TRADING CO., NEW YORK CITY.**

Mr. TINCHER. Mr. Franklin, you acted for your company in purchasing this sugar in the Argentine and took part in the transaction?

Mr. FRANKLIN. I acted for them in this country.

Mr. TINCHER. What price did you pay for the sugar in the Argentine?

Mr. FRANKLIN. Between 13 and 14 cents.

Mr. TINCHER. What are the freight charges on sugar from the Argentine to our ports?

Mr. FRANKLIN. The freight charges ran, I believe, between \$10 and \$11 a ton.

Mr. TINCHER. What would that be a pound?

Mr. FRANKLIN. About one-half cent a pound, or a little over one-half cent a pound.

Mr. TINCHER. You had offices already in the Argentine and you had your force there?

Mr. FRANKLIN. We have had officers there for about 30 years; yes, sir.

Mr. TINCHER. What other expense is there in shipping sugar besides the shipping charge?

Mr. FRANKLIN. Well, there were the inland rail charges down there, the storage charges, insurance charges, and warehouse charges.

Mr. TINCHER. If I remember correctly, the price that you paid for the sugar there included the assembling of the sugar in the Argentine?

Mr. FRANKLIN. No, sir. Some of the contracts were f. o. b. Buenos Aires, some of the contracts were further inland, and some of them, when the permits were held up, we had to take delivery on and store in warehouses where we could get the space.

Mr. TINCHER. What was the cost of your sugar actually assembled in the Argentine?

Mr. FRANKLIN. The average cost of the sugar f. a. s., which means free alongside the ship, was about 14.20 cents. That did not include the interest on the money. The interest on the money would run the price up. It would be, say, 4,000 tons, if you like, that would cost \$300 a ton, or \$1,200,000. The interest on that at 8 per cent, which is what we were paying at that time, for three months would be 2 per cent, which would be about one-fourth of a cent a pound.

Mr. TINCHER. Where did you procure this money?

Mr. FRANKLIN. We borrowed it from the banks.

Mr. TINCHER. What banks?

Mr. FRANKLIN. The New York Trust Co. and the Anglo-South American bank. Those were the banks that the American Trading Co. borrowed the money from.

Mr. TINCHER. The American Trading Co., as I recall it, financed the transaction, did they not?

Mr. FRANKLIN. Jointly with the Howell company, we both took the responsibility for all the credit.

Mr. TINCHER. I understand that; but the money was furnished by those banks and you both took the responsibility for the repayment of the money, or did they borrow some money somewhere, too?

Mr. FRANKLIN. No; I do not know that they did, so far as I am concerned, but the B. H. Howell Co., as you will remember, later established another credit through the National City Bank, as I recall it. In other words, that credit was not used, but was later established in case there was more sugar to be bought under the arrangement by which the Department of Justice asked us to get as large quantities as we could.

Mr. TINCHER. You refined that sugar here, then?

Mr. FRANKLIN. I beg your pardon?

Mr. TINCHER. Was the sugar that you disposed of refined in the United States?

Mr. FRANKLIN. Oh, no; this was refined sugar that we purchased in the Argentine.

Mr. TINCHER. It did not need any refining?

Mr. FRANKLIN. It did not need any refining to sell on the market at that time, but afterwards, as you will remember, I think Judge Glasgow and I both explained, after the sugar got here and the market had broken the character of the Argentine sugar was not such as you would want on your table, for instance. You would want the American white granulated. The Argentine sugar was usually larger lumps and not as pure in color.

Mr. TINCHER. But, as I understand, the sugar that was disposed of by you was not refined in any way?

Mr. FRANKLIN. Not until after the market broke; in fact, not until we first appeared before your committee, and then after we could not get a disposal of that sugar, it was found we could dispose of it to a better advantage through regular channels by rerefining it and getting it into American shape. The one reason for doing that was that this sugar, which was bought in the Argentine in bags of 70 kilos, which is practically 150 pounds, and American sugar is sold in 100-pound bags. Consequently the trade wanted it in 100-pound bags rather than as it came from the Argentine.

Mr. TINCHER. Where is the sugar that is left?

Mr. FRANKLIN. It is now all disposed of.

Mr. TINCHER. The sugar has been disposed of?

Mr. FRANKLIN. Yes, sir.

Mr. TINCHER. So there would not be any sugar for the Sugar Equalization Board to take charge of?

Mr. FRANKLIN. Not now; because, after very careful consideration of the market conditions, after we first appeared before your committee here, it was realized that the market was going to continue to go on down, and we sold that sugar just as rapidly as we could at the very best prices we could obtain for it so as to prevent losses.

Mr. ASWELL. What did you receive?

Mr. FRANKLIN. It varied in price clear down the line. I think the highest price we received was somewhere along about possibly 15 cents and from there all the way down to 4½ cents.

Mr. McLAUGHLIN of Michigan. Down to what?

Mr. FRANKLIN. 4½ cents, I think, was the lowest price we received.

Mr. TINCHER. Then the proposition is simply a matter of the Sugar Equalization Board paying your companies a fixed amount of money.

Mr. FRANKLIN. I would not say that, Mr. Tinchler, for the reason, first, because they have been entirely familiar with what we have been doing—that is, since we appeared before you gentlemen and since the time we went before the Sugar Equalization Board, which was before we came before this committee, as you will recall—and secondly, because there are certain things in this case yet which have not been straightened out. There are contracts

there, there are insurance claims, etc., which will have to be straightened out, which we can do or which the board can do, and because of the general proposition throughout the whole transaction we propose to turn over to them the accounts and everything else and have them audit and settle the whole thing without any profit or loss to us.

Mr. CLARKE. To the Sugar Equalization Board?

Mr. FRANKLIN. To the Sugar Equalization Board; that is, we turn over the entire transaction to them.

Mr. TINCHER. You have surely made some figures as to what amount of money it would take to settle these claims, have you not?

Mr. FRANKLIN. If we are successful in collecting all our insurance claims and in making the final collections for the sugar, which I told you was sold under the original contracts as provided for by the Government, if we are successful, as I say, in collecting those insurance claims and collecting those charges which we now have under litigation there with these people who bought that sugar under the contracts made with the Government, if we are successful, the maximum as we see it now will be \$2,000,000. If, on the other hand, we should lose those suits for some reason or other and not make collections from the insurance companies of what we believe are good claims we would then have a maximum loss of about \$2,500,000. In other words, there is practically in that gap there between the claims we have against the actual purchasers of the sugar under the Government contracts and the claims we have against the steamship company, one of the steamers of which caught fire in Buenos Aires, an amount of about \$500,000, as near as we can figure it. That does not include the interest on the money.

Mr. TINCHER. In whose name were these policies of insurance?

Mr. FRANKLIN. They were in the name of the American Trading Co.

Mr. TINCHER. Is there any litigation pending concerning the collection of those policies?

Mr. FRANKLIN. Litigation with the insurance companies?

Mr. TINCHER. Yes.

Mr. FRANKLIN. No; it is not in the hands of the lawyers. It is being collected through the regular channels through our own insurance department.

Mr. TINCHER. Before the real break in the price of sugar, what were you receiving for this sugar?

Mr. FRANKLIN. For this character of sugar?

Mr. TINCHER. What was the highest price you sold any of this sugar for?

Mr. FRANKLIN. The regular price established by the Government, 21.30 cents.

Mr. TINCHER. I believe that is all, Mr. Franklin.

Mr. FRANKLIN. Thank you, sir.

Mr. TINCHER. I do desire, Mr. Chairman, before the hearings on this matter close, in view of what has happened here this morning, to state in the record that I have no apology whatever to make for asking Mr. Post any questions. I perhaps had not read Who's Who as carefully as some people have, but I have no apology to make. I meant no personal offense to Mr. Post, and I think he so understood it, as I talked with him after our colloquy here, and I am sure he had no personal feeling about the matter and knew that I had none, and I have no apology to make for seeking to bring forth the facts in this case, and have no apology to make to this committee or any member of it or to the the Congress for my attitude on this claim.

Mr. ASWELL. I did not ask for an apology. I just wanted to protest against wasting a whole day's time.

Mr. TINCHER. I want to call the attention of the committee to the fact that Who's Who is not generally placed in the hearings on bills we have before this committee, and if we want information we do not generally get it from Who's Who but from the lips of witnesses, and it is generally put in the record in some direct way.

I do not care to ask you any other questions, Mr. Franklin, but if there is any statement you feel like making, so far as I am concerned, I will be glad to have you make it.

Mr. FRANKLIN. No, sir; I have tried to give the committee everything we have.

Mr. McLAUGHLIN of Michigan. Are there any other questions to be asked of Mr. Franklin?

Mr. WILLIAMS. I do not know that I understand about this insurance. What character of insurance do you refer to, Mr. Franklin?

Mr. FRANKLIN. In what case?

Mr. WILLIAMS. You said you had some insurance matters in process of settlement.

Mr. FRANKLIN. Insurance on the vessels, and there was some slight insurance on the sugar in the warehouses in Buenos Aires, as I recall, that has not been settled, but the main amount is due to various damages that occurred on the vessels. There was one of them that caught fire.

Mr. CLARKE. In the docks down there?

Mr. FRANKLIN. In the docks; yes, sir.

Mr. McLAUGHLIN of Michigan. Did you carry insurance against loss or failure to realize profits?

Mr. FRANKLIN. No, sir; none at all. It was just the customary insurance, Mr. McLaughlin, that would be carried on any cargo while it was in transit.

Mr. McLAUGHLIN of Michigan. I understood that, but I wanted the record clear on it.

Mr. FRANKLIN. Yes, sir.

Mr. McLAUGHLIN of Michigan. Are there any other questions or any other witnesses?

Mr. FRANKLIN. None that we have, sir.

STATEMENT OF HON. WILLIAM W. CHALMERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO.

Mr. McLAUGHLIN of Michigan. Are you here on this hearing, Mr. Chalmers?

Mr. CHALMERS. I am interested in the hearing, and if it is proper for Members of Congress to come in here and file protests, I want to file one; not against the passage of this bill, because I have read the bill and I have read the hearings from beginning to end, and I have determined in my own mind, and, of course, that is a matter for each member of the committee and of the House to determine for himself, that there was never a juster claim presented to Congress than this, and as a Member of Congress I want to protest against the Government of the United States not paying its just debts and legal debts. The Attorney General at one time said it was a legal obligation. Whether it is or not, all of the Government officials who have appeared before this committee say positively that this is a moral obligation, and I am in favor of the Government of the United States meeting all of its moral obligations.

Now, as to whether, as Mr. Johnson said here this morning, undue pressure was brought upon the State Department to get this permit through, it seems to me that that is not material at all. That is a political matter. These people who are here and who have suffered financially acted at the request of the Government of the United States, when appealed to through their patriotism to step in and break the corner on sugar, which they did, thereby saved the people of this country millions of dollars and perhaps a billion dollars or more. They did that and they are not to blame for undue pressure brought upon the State Department. The former State Department under Mr. Colby, in all of the testimony they have brought before this committee, claimed that this was a just and moral claim, and their successors, the Republicans, who are now in the State Department, have appeared before this committee and said that this is a moral and just claim. The former Attorney General, Mr. A. Mitchell Palmer, and his assistants have appeared here and said that the Government is obligated to meet the loss involved in this claim, and under the present administration the Attorney General and his assistants have done the same thing.

Now, it seems to me that the matter that was brought out here by Mr. Tinchier this morning in questioning Mr. Franklin is immaterial. It seems to me it is immaterial whether these people made any profit on the sugar that was sold or not, because they are willing, as I understand it, to turn over all profits or any commission that was agreed upon and have the Government of the United States assume this entire transaction from its inception and simply bear the loss that these people were subjected to because they obeyed the mandate or the request of the Government of the United States and stepped in and saved the situation.

Now, as one Member of Congress, I want to protest against not paying this just and moral claim, as I see it.

Mr. TINCHER. Mr. Chalmers, I recognize your absolute right to appear before this committee.

Mr. CHALMERS. I would not have done so, Mr. Tinchier, if Mr. Johnson had not appeared on the other side.

Mr. TINCHER. I think the entire committee is glad to have you appear, but you have seen fit to call attention to some questions that I asked Mr. Franklin. I am sure you meant Mr. Franklin instead of Mr. Johnson. They were questions about the price they paid for this sugar and the price at which they sold it. I want to enlighten you on that or to call your attention to the importance of it, in my judgment. It is claimed by these companies that one of the reasons there is an obligation on the part of this Government to pay them—and, perhaps, the strongest reason they have—is that they were denied in a roundabout way the right to resell this sugar in the Argentine. It is also claimed that they were to sell the sugar here for a very nominal profit, and that it was to be more of a patriotic service than anything else. It is also admitted that they bought the sugar in the Argentine for 14 cents a pound assembled there. The carrying charges on it from the Argentine to this country were less than one half cent a pound, and they started out and sold several thousand tons of it for 21 and a fraction cents a pound.

Mr. CHALMERS. Five thousand tons, at 21.31 cents per pound.

Mr. TINCHER. Or about 7 cents a pound more than they accounted for in the figures given here?

Mr. CHALMERS. Yes.

Mr. TINCHER. Do you mean to criticize me for putting those figures in the record?

Mr. CHALMERS. Not at all.

Mr. TINCHER. I do not think you ought to criticize me for bringing out those facts.

Mr. CHALMERS. I did not mean to do that at all, and I supposed that the committee, through the Sugar Equalization Board and their expert accountants, would squeeze out all the profit in this transaction and simply meet the loss that was sustained in putting over this deal, which was immensely successful.

Mr. TINCHER. I am afraid you do not get my point.

Mr. CHALMERS. Yes; I get your point.

Mr. TINCHER. Here is my point: If, instead of trying to make a cent a pound, which I am frank to say to you they could have made at any time, even by reselling the sugar in the Argentine—

Mr. CHALMERS. If they had been permitted to do that.

Mr. TINCHER. They were permitted to do that. They were only held up 10 days, and then they were granted the permit. The old record in this case will disclose that the only price they ever offered this sugar for in the Argentine was an excess of 4 cents a pound, or 2½ cents at the very best, that it cost them, and if that was what they were doing, that should have some bearing on this question of whether or not there is a moral obligation. We must take those things into consideration in deciding whether there is a moral obligation or not.

Mr. ASWELL. When they sold it for 21 cents a pound, was that the price fixed by the Government?

Mr. CHALMERS. 21.3 cents, as I understand it; yes.

Mr. ASWELL. That was the price fixed by the Sugar Equalization Board?

Mr. CHALMERS. Yes. As I understand the proposition, and as you all know because you have been hearing the statements, these people, the American Trading Co. and B. H. Howell, Son & Co., were working under the direction of the Government officials. That is the way I understand the situation.

ADDITIONAL STATEMENT OF MR. WALTER S. FRANKLIN, VICE PRESIDENT AMERICAN TRADING CO.

Mr. ASWELL. Mr. Franklin, at what price did you offer this sugar in the Argentine?

Mr. FRANKLIN. Sixteen cents.

Mr. ASWELL. You offered it down there at 16 cents?

Mr. FRANKLIN. The American Government offered it to the Argentine Government at 16 cents.

Mr. Tinchler asked me some direct questions this morning and I answered them exactly as he asked them, in accordance with the facts. Now he intimates, I think, possibly directly based on what I said, that there were no other charges in this transaction. I answered his questions, as I have just said, exactly in accordance with what the actual facts are in the case, as I have done before you time and time again.

Now, I am not an expert accountant and we are not prepared to submit all the detailed figures to this committee for the reason that when the transaction

is taken over by the Sugar Equalization Board, it is natural to suppose, and I think Judge Glasgow has told you that they propose to put their expert accountants on our books and on Howell & Co.'s books and verify everything in this transaction. Now, Mr. Tincher asked me this morning how much we paid for the sugar in the Argentine. I want you to understand that the figures I am giving you from this memorandum are approximate figures, but they are the figures as near as we can estimate them. When the books are finally closed they will naturally give the actual figures we have on our books at the date when the final transaction is wiped out and the auditing is done by the Sugar Equalization Board.

Mr. CLARKE. There will be only fractional variations, then.

Mr. FRANKLIN. It is only a question of variations.

Mr. CLARKE. I mean fractional variations.

Mr. FRANKLIN. So far as I am personally concerned, I am not the auditor of our company, but I think there would be only very small fractional variations. I told Mr. Tincher, and I have told you gentlemen, that we paid between 13 and 14 cents for the sugar, consistently, from the first day I appeared before this committee, and that is correct. We paid in the Argentine, approximately, an average price of about 13.05 cents. We paid for various charges which I outlined to you this morning in the way of inland shipping charges, storage, loading, demurrage, and financing, and various other charges in connection with the getting of that sugar on board the ships, all of which, gentlemen, we can give you certified accounts for, on the basis of pounds, 1.15 cents per pound. As I told Mr. Tincher this morning, that brings the f. a. s. price—free alongside the ship—to 14.20 cents. We paid duty in the Argentine amounting to 1.75 cents.

Mr. McLAUGHLIN of Michigan. Per pound?

Mr. FRANKLIN. Per pound. That brings the price of that sugar, f. o. b. the ship in the Argentine to 15.96 cents.

Mr. ASWELL. And you offered it to them at 16 cents?

Mr. FRANKLIN. The United States Government offered it to the Argentine Government at 16 cents.

Now, I told Mr. Tincher this morning we paid approximately from \$10 to \$11 a ton freight charges. Our ocean charges and freight, including the insurance, cost us 0.67 cents per pound. The New York charges which include insurance and storage, lighterage, demurrage on lighters, rebagging of a certain portion of it, cables, and certain miscellaneous items in connection with the docking and handling of the cargo there at New York cost 0.42 cents per pound.

Mr. CLARKE. And they are certified accountant's figures?

Mr. FRANKLIN. These are not certified accountants' figures. They are the figures of our own accountants as nearly as we can get them at the present time. We paid here in New York on this sugar as duty 1.29 cents. That brings the total cost of this sugar in warehouses in New York City to an average price of 18.34 cents. Now, that is what that sugar cost us to land in the warehouses in New York. As I explained to Mr. Tincher this morning, there was a portion of that sugar which, in order to dispose of, we had to rerefine, because it was not the character of sugar that ordinarily is accepted in this market by the household consumer. That has been explained here to you gentlemen, I think, two or three times. That amounted to 22,352,000 pounds that we refined at a cost of 1.09 cents. Bear in mind that all these figures are as near as we can get them. That brings the total cost if this transaction on a per pound basis to 19.43 cents.

The CHAIRMAN. You refined only a small part of it?

Mr. FRANKLIN. I gave you the amount we rerefined—22,352,000 pounds.

Mr. KINCHELOE. And including that extra cost, that is the average cost of the whole thing?

Mr. FRANKLIN. That is the average cost of the whole proposition; yes, sir.

Mr. CLARKE. What is that total figure again?

Mr. FRANKLIN. 19.43 cents.

Mr. TINCHER. I do not like to interrupt you, but it does not seem to bother you for other people to interrupt.

Mr. CLAGUE. Let him finish this statement first.

Mr. TINCHER. I understand, then, that you are willing to be interrupted by anybody except me?

Mr. FRANKLIN. No, sir; not at all. I have no prejudice against anybody here, Mr. Tincher.

The CHAIRMAN. Does it cost 6 cents a pound to refine sugar?

Mr. FRANKLIN. I gave you the costs, Mr. Chairman.

The CHAIRMAN. You said the average cost was 1.09 cents a pound, and you refined about one-sixth of it. Let us get that straightened out.

Mr. FRANKLIN. I tried to answer that. I gave you the cost of rerefining this sugar as 1.09 cents.

The CHAIRMAN. When you speak of this sugar, do you mean—

Mr. FRANKLIN (interposing). Just a moment. I have not answered your question yet; 1.09 cents per pound was the actual cost, as near as we can figure it, of rerefining the sugar that we had to refine in order to dispose of it on this market.

The CHAIRMAN. By "this sugar," what do you mean—the 13,000 tons?

Mr. FRANKLIN. No, sir; I am referring to the sugar which we had to rerefine after the market broke, as I explained this morning.

The CHAIRMAN. But you are dealing with the average cost of all the sugar. Now, what was the average cost? Are you dealing with the total amount purchased?

Mr. FRANKLIN. I am now talking about the sugar that we had to rerefine to sell on this market.

The CHAIRMAN. Then, this was the cost of simply the sugar that you refined?

Mr. FRANKLIN. That particular figure which I just gave you of 1.09 cents is the cost per pound of rerefining that portion of the sugar which we had to rerefine.

The CHAIRMAN. Then, you are dealing with the price of the 22,352,000 pounds, and you are not dealing with the whole lot.

Mr. FRANKLIN. Only that particular item that you asked me about. The balance covers all the sugar that was brought into the United States by the American Trading Co.

Mr. TINCHER. Now, Mr. Franklin, there are two points I want to get clear in this record, and one of them is the Argentine duty.

Mr. FRANKLIN. Yes.

Mr. TINCHER. That is an export duty?

Mr. FRANKLIN. Absolutely.

Mr. TINCHER. You do not pay that duty until you ship the sugar out of the Argentine?

Mr. FRANKLIN. That is true.

Mr. TINCHER. Therefore, if you had sold that sugar in the Argentine, that duty would not have applied.

Mr. FRANKLIN. That is the reason, Mr. Tinchler, when you asked me the cost of the sugar in the Argentine this morning—

Mr. TINCHER (interposing). I understood you to say—

Mr. FRANKLIN (interposing). Let me finish, if you please. That is the reason this morning when you asked me the cost of the sugar in Argentina I told you that the sugar cost us 14.20 cents. I told you that in addition to that, the interest on the money for the 4,000 tons which I knew you had in mind was practically one-quarter of a cent, which would make the cost of that sugar there, which the Government offered to the Argentine Government, as near as we can figure, 14½ cents.

Mr. TINCHER. So that anyone may understand this, and in order that it may be clear, the Argentine duty did not apply at all and need not be taken into consideration in the offer you made of the sugar to the Argentine Government.

Mr. FRANKLIN. Absolutely not.

Mr. TINCHER. Now, one other point: You were selling sugar at 21 and a fraction cents per pound here. At that time, while you had any such market as that for sugar, you were not rerefining any sugar, and it was not necessary to rerefine this sugar until after the market broke.

Mr. FRANKLIN. Absolutely not.

Mr. TINCHER. So that the rerefining cost should not figure in the price you were selling your sugar for here until after this controversy came up and the market for sugar broke.

Mr. FRANKLIN. That is exactly the way I gave it to you.

Mr. TINCHER. No; it may be that you meant to give it in that way, but you had a set of figures there and you had in your additional rerefining cost on 22,500,000 pounds, and you added that in in arriving at the figure you used when you sold sugar at 21 cents, when it should not have been added, because you did not then contemplate the rerefining of any sugar.

(Here followed informal discussion, which the reporter was directed not to take.)

Mr. JACOWAY. State how you arrived at the average cost per pound of this sugar to you, taking into consideration the refined sugar and the unrefined sugar?

Mr. FRANKLIN. Mr. Jacoway, I have just actually done that in detail; but I want to point out, which I think will clear up your question and clear up Mr. Tincher's question at the same time—

Mr. JACOWAY. You understand, I am just trying to get the record clear.

Mr. FRANKLIN. I understand. When I gave you those prices, Mr. Tincher, I emphasized the price of 18.34 cents, which I told you was our price in the warehouse in New York City. I tried to emphasize that particular thing to you, so as to give you that point and not confuse you with what you seemed to think we were trying to confuse you, which is the higher price of the sugar—namely, that the price which I tried to fix in your mind at that time as the cost of the sugar in the warehouse in New York was approximately 18.34 cents.

The CHAIRMAN. What about this refining? How much of the 13,902 tons imported were refined?

Mr. FRANKLIN. There were 22,500,000—

The CHAIRMAN. That is pounds; reduce that to tons. How many tons is that?

Mr. SINCLAIR. That is over 11,000 tons.

Mr. FRANKLIN. Oh, no; I beg your pardon.

Mr. REED. He is asking the number of tons rerefined.

Mr. FRANKLIN. Yes; you are right about that. That is the amount of sugar that was rerefined.

Mr. JONES. Twenty-two million pounds?

Mr. FRANKLIN. Yes.

The CHAIRMAN. And that is about 10,000,000 long tons?

Mr. FRANKLIN. Yes.

The CHAIRMAN. That would be about two-thirds of the total importation, wouldn't it?

Mr. FRANKLIN. Yes.

The CHAIRMAN. Then the cost would be about two-thirds of the \$1.15, would it not?

Mr. FRANKLIN. About 1.09 cents per pound.

The CHAIRMAN. But what was the average on the total importation?

Mr. FRANKLIN. That is on the amount rerefined.

The CHAIRMAN. Of course, if you are going to deal with these things separately, that is a different thing.

Mr. FRANKLIN. I tried to explain, Mr. Chairman, that of the amount that was brought in that we rerefined—

The CHAIRMAN. I understand that.

Mr. FRANKLIN. The cost per pound—

The CHAIRMAN. Was 1.09 cents, and you propose to add that 1.09 cents to all of it? Is that it?

Mr. FRANKLIN. I propose to add the cost of rerefining the portion that we did rerefine to the final cost of the sugar at that time.

The CHAIRMAN. If you want to deal with two of them separately, very well.

Mr. KINCHELOE. You stated that your average cost in the warehouse in New York on all your sugar that was imported was 18.34 cents, and in arriving at that you took the cost of rerefining a certain part of it, and you took the export and import duties and your insurance, and everything?

Mr. FRANKLIN. Absolutely; yes, sir.

Mr. ASWELL. Mr. Franklin, the Sugar Equalization Board proposes, as I understand it, to have its auditors check your figures and squeeze out all the profits and check up exactly the loss and nothing else. I understand that is what they will do.

Mr. FRANKLIN. I think so.

Mr. ASWELL. Then what does all this discussion have to do with that?

Mr. FRANKLIN. Nothing whatever, sir, except that I wanted to make myself clear before these gentlemen in regard to what the sugar cost us in the warehouse in New York.

Mr. ASWELL. Would not those auditors check you up and bring that out, anyway?

Mr. FRANKLIN. Absolutely, they will; and I have explained that to you.

Mr. TINCHER. I am a little surprised that you, as a witness before the committee, should express the opinion that the cost of this sugar in the Argentine

and the selling price of it here would not be a matter for this committee to consider and discuss.

Mr. ASWELL. Oh, no; I did not ask that question.

Mr. TINCHER. We are called upon here to pay a moral or legal obligation. You lost this money, and you are supposed to have clean hands. Do you think that my questions relating to the price of this sugar have nothing to do with this transaction?

Mr. FRANKLIN. I said, in answer to Mr. Aswell's question, that they would have nothing to do with the final liquidation of it, because we were turning the whole transaction over to the Sugar Equalization Board. I think your questions are perfectly proper and perfectly in order; absolutely. There is no question about that.

Mr. JONES. If I understand you, the whole thing is bottomed on your not making more than a cent a pound, and is therefore a moral obligation?

Mr. FRANKLIN. Absolutely. It was never contemplated that we would make more than a cent a pound, and as the contracts read, as you will remember, if at any time there was more than that, then when the transaction was concluded any amount over that would be refunded to the party that bought the sugar.

Mr. JONES. That is the reason I emphasized the fact, however, that I did think his questions were very pertinent, for the reason that it would bear on the moral obligation to pay the money. If it was not being carried out in good faith, of course there would not be any moral obligation. I am just saying that as indicating that I think the questions are pertinent.

Mr. FRANKLIN. I said, Mr. Jones, that I thought so too. All I have tried to do this morning, gentlemen, is to clear up the apparent discrepancies between the figures that I gave Mr. Tinchler in answer to his and other questions this morning and the total cost of the sugar landed in the warehouse in New York.

Mr. WARD. Mr. Franklin, under your original contracts if you had made more than 1 cent a pound on the sugar, does the contract read that the surplus profit should be returned to the purchaser or to the Government?

Mr. FRANKLIN. It read it should be returned to the purchaser; in other words, that the transaction should be carried on so that the two companies which were acting for the Government in the transaction should not receive more than 1 cent per pound each.

Mr. WARD. And you could not possibly have made any more money out of the transaction if it had all been completed as originally arranged?

Mr. FRANKLIN. Absolutely.

Mr. WARD. That is, H. B. Howell & Co. 1 cent a pound, and the American Trading Co. 1 cent a pound?

Mr. FRANKLIN. That is quite right.

Mr. WARD. And that was to be handled by the Sugar Equalization Board?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. Now, Mr. Franklin, you have given us the estimated cost of the 22,000,000 pounds that were rerefined. Do you care to give the estimated cost of all of it, the 13,902 tons?

Mr. FRANKLIN. I have done that, Mr. Chairman.

The CHAIRMAN. You have given us the cost of the 22,000,000 pounds.

Mr. PURNELL. Mr. Chairman, I believe I can clear up the difficulty that is in your mind.

The CHAIRMAN. Well, but this is a different proposition.

Mr. PURNELL. They spread the cost over all of it.

The CHAIRMAN. Are we to understand that that is the average cost to refine all of it?

Mr. FRANKLIN. I am sorry that I do not catch that question.

The CHAIRMAN. Mr. Purnell now claims that that \$1.15 is the average cost. Is that the average cost of all of it, and is that added to the 18.34 cents?

Mr. FRANKLIN. To get at the final figure, Mr. Chairman—

The CHAIRMAN. Well, what is the average cost of the sugar you imported?

Mr. FRANKLIN. Let me get this down straight, please. The average cost, including everything in connection with the transaction except the interest on the money, as nearly as we can figure it amounts to 19.43 cents per pound.

The CHAIRMAN. That is adding 1.09 cents per pound to all of it, is it not?

Mr. FRANKLIN. That is adding 1.09 cents to the portion of the sugar that was rerefined.

The CHAIRMAN. But you add that to the total importation. Now, there is a discrepancy there. If the actual cost was 1.09 cents for only part of it, it would not be fair to add that 1.09 cents to all of it.

Mr. FRANKLIN. The point is there, Mr. Haugen, as I see it, that you do not differentiate between the total cost and the average per pound cost. If you are treating the transaction on the average per pound cost you have got to add to it anything which tends to increase that average per pound cost.

Mr. JONES. I think this is the point he is getting at. Did you spread this cost over the entire sugar?

Mr. FRANKLIN. That is it.

The CHAIRMAN. I think Mr. Franklin certainly understands, and I think I do, and I think every member of this committee does. Now, what is the cost of refining sugar?

Mr. FRANKLIN. The cost of refining the sugar was 1.09 cents per pound.

The CHAIRMAN. Then you refined a part of it, about two-thirds of it, and you now propose to charge 1.09 cents for all of it?

Mr. FRANKLIN. That cost was averaged over the entire lot of sugar on the average basis.

The CHAIRMAN. Well, if you want the record to stand that way, let it stand right there.

Mr. FRANKLIN. I am afraid I can not make it any clearer, sir.

Mr. REED. Excuse me just a minute. Let me ask one question which I think will bring out the point. Did you make any charge in your costs for refining sugar which was not refined?

Mr. FRANKLIN. No.

Mr. REED. Did you make any charge whatever for refining any portion of the sugar which was not refined?

Mr. FRANKLIN. No.

The CHAIRMAN. All right. Then the question is: What is the average cost of the sugar, the whole lot?

Mr. FRANKLIN. 19.43 cents, including the refining.

The CHAIRMAN. Then you do add 1.09 cents to that portion of it which was not refined?

Mr. FRANKLIN. Oh, no.

The CHAIRMAN. I am willing to let that statement remain if you are.

Mr. ASWELL. Mr. Chairman, I am not willing for it to go that way.

The CHAIRMAN. I am perfectly willing to let that statement rest where it is.

Mr. ASWELL. I want to ask the witness a question, if I may. Mr. Franklin, as I understand him, says that the cost of refining that 22,000,000 and odd pounds of sugar was 1.09 cents a pound. Now, he took that 1.09 cents on the 22,000,000 pounds, and distributed that over the whole lot, and he did not charge anything extra for that which he did not refine.

The CHAIRMAN. But that is not his statement.

Mr. FRANKLIN. Yes, it is.

The CHAIRMAN. I think Mr. Franklin is perfectly competent to answer these questions. I simply want to get at the cost, and I am perfectly willing to let his statement remain as it is.

Now then, can you approximate the loss?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. What is the present price of sugar? What is sugar worth to-day?

Mr. FRANKLIN. I approximated the loss to Mr. Tinchler this morning when you were not here, Mr. Haugen, in this way: So far as we can now see, if we collected the insurance claims, and the legal claims that we have against the people to whom we originally sold the sugar under the original contracts, we would have a loss of approximately \$2,000,000.

The CHAIRMAN. Well, what is the price of sugar to-day? What do you expect to get for this 8,000,000 pounds?

Mr. FRANKLIN. All the sugar that we have brought in under this contract has been sold.

The CHAIRMAN. What did it sell for?

Mr. KINCHELOE. He has stated that this morning when you were not here, Mr. Chairman.

Mr. FRANKLIN. It sold at prices varying from about 15 cents to about 41 cents.

The CHAIRMAN. What was the average?

Mr. FRANKLIN. The average price realized was about 11.06 cents.

The CHAIRMAN. Then the loss would be more than 7 cents a pound?

Mr. FRANKLIN. No, sir; that is the average—

The CHAIRMAN. Well, you have figured up the average cost at 19.43, and you say you sold at an average of 11.06. Subtract 11.06 from 19.43, and you get—

Mr. CLARKE. It is eight and a fraction.

The CHAIRMAN. Yes; eight and a fraction.

Mr. FRANKLIN. That is approximately correct; yes, sir.

The CHAIRMAN. Is that figured on the 13,902 tons?

Mr. FRANKLIN. No, sir. The loss, Mr. Haugen, is taken as a whole on the whole transaction, including all claims and insurance and everything else there is. I tried to explain that the best I could.

Mr. KINCHELOE. You have given that here in your statement?

Mr. FRANKLIN. Absolutely.

The CHAIRMAN. Well, there are a number of controverted questions here, and I am trying to get it straight in the record. I am trying to find out what this will amount to when you get it settled, and it seems to me you ought to be able to approximate the loss. You stated before that it would be about \$1,900,000, or probably \$2,000,000. Now, what is the loss going to be?

Mr. FRANKLIN. The loss is going to be, Mr. Haugen, \$2,000,000.

The CHAIRMAN. For what?

Mr. FRANKLIN. Two million dollars on the whole transaction, if we collect insurance claims and the claims on the original contracts of—I will give you those amounts—approximately \$488,000.

The CHAIRMAN. What is that for?

Mr. FRANKLIN. That is for the items that I just mentioned to you, the insurance and so on.

The CHAIRMAN. Which is now claimed?

Mr. FRANKLIN. Which is now claimed. So that our maximum loss on the transaction will be approximately \$2,500,000. Our minimum loss will be approximately \$2,000,000. Depending on those two things that I have just recited to you, amounting to \$488,000.

Mr. JONES. I would like to ask some questions along the line of that.

The CHAIRMAN. I would like to get his answer on that. How do you arrive at those figures? Eight cents a pound would be more than that, would it not?

Mr. FRANKLIN. Would you mind if I gave you the total figures? I have given it to you per pound. Suppose I give you the actual out-of-pocket cost on it?

The CHAIRMAN. Don't you think we ought to have that, so we can explain that to the House, if this matter goes to the House? I take it you have those figures, or can get them.

Mr. FRANKLIN. Yes, sir; I can give you those figures now, Mr. Haugen.

The CHAIRMAN. Then how do you arrive at the \$2,500,000? How much a pound loss is that?

Mr. HAYS. I suppose they know how much money they have paid out and how much money they have received.

Mr. CLARKE. Divide it by the number of pounds of sugar. It is eight and a fraction cents.

Mr. JACOWAY. Mr. Chairman, you are trying to get at a definite thing, in order to know what this loss is. I am going to make the suggestion that you examine the witness in order to get what you want, so that you, as chairman of this committee, can make the report, and then turn the witness over to the committee.

The CHAIRMAN. All I want to know is the exact loss.

Mr. SINCLAIR. Is not this about what you have stated? The cost of that sugar was 19.43 cents a pound. You sold it at about 11-plus cents a pound?

Mr. FRANKLIN. Yes, sir.

Mr. SINCLAIR. You handled about 30,000,000 pounds of sugar?

Mr. FRANKLIN. Quite right.

Mr. SINCLAIR. At a loss of 8 cents per pound. Eight times 30,000,000 would be \$2,400,000? That is approximately your loss?

Mr. FRANKLIN. Yes, sir. There is about an 8-cent loss on the transaction.

The CHAIRMAN. Well, you have \$488,000 for other charges?

Mr. FRANKLIN. No, sir; that is all in there, Mr. Haugen. That is included. That is the maximum loss per pound.

The CHAIRMAN. You sold 5,000 tons and you made \$200,000 on that. What about that? Is that to be deducted from this amount?

Mr. FRANKLIN. That is taken into the whole transaction.

Mr. KINCHELOE. You considered that when you arrived at this figure of 11.06 cents?

Mr. FRANKLIN. Absolutely. When we arrived at the 11.06 cents, that is taken in—

The CHAIRMAN. Let me read Mr. Glasgow's statement and see if you agree with it. He says:

"The Sugar Equalization Board would dispose of the remaining 9,000 tons of sugar at a loss, against which would be credited a profit which had been made on the 5,000 tons, and if I understand it the net loss would be somewhere in the neighborhood of \$1,900,000 or \$2,000,000 when the transaction is closed."

Mr. FRANKLIN. That is right, sir.

The CHAIRMAN. Your estimate is more. You agree to that statement, do you?

Mr. FRANKLIN. I agree to that statement absolutely.

The CHAIRMAN. And your estimate of the maximum loss now is \$2,500,000 and the minimum \$2,000,000?

Mr. FRANKLIN. Yes, sir.

The CHAIRMAN. Now, then, we have it straight in the record.

Mr. JONES. I want to ask a few questions about that contract. To whom were you planning to sell this sugar?

Mr. FRANKLIN. The names of those people were furnished by the Department of Justice.

Mr. JONES. Certain individuals throughout the country, were they not?

Mr. FRANKLIN. I really do not know that, because Howell & Co. handled that.

Mr. JONES. On what basis were you doing business generally, your company, at that time? On the license system?

Mr. FRANKLIN. We had a general license, I think, Mr. Jones, but the importing of this sugar required no license.

Mr. JONES. You had no license at all for the importation of this sugar?

Mr. FRANKLIN. There was no license required; no, sir.

Mr. JONES. Now, you were permitted by the Government to sell this sugar at 21 cents a pound?

Mr. FRANKLIN. Howell & Co. did that, you see, under their license.

Mr. JONES. On a certain premium that was given you by the Government, upon which you estimated the cost of this sugar? Is that right?

Mr. FRANKLIN. That is quite right.

Mr. JONES. Now, have you any of those terms written down or in writing, other than as they are disclosed in your cablegrams through the State Department here?

Mr. FRANKLIN. Well, you must recollect, Mr. Jones, that the actual contract which was drawn up, as I remember it, in the Department of Justice, was filed with your committee as a part of the hearings.

Mr. JONES. Well, now, that contract specifies 21 cents a pound, does it not?

Mr. FRANKLIN. It specifies our cost at 21.30 cents.

Mr. JONES. That contract does not say anything about your returning these profits to the purchaser?

Mr. FRANKLIN. Yes; it does.

Mr. JONES. I see; a statement of the credit balance would be rendered to the buyer. Now, in your transactions with the Government, did they ever check over and run down these items, or did they take your figures for them?

Mr. FRANKLIN. They went over the list with me in the Department of Justice at the time that figure was used.

Mr. JONES. Now, this 5,000 tons that you actually sold for 21 cents—you actually sold 5,000 tons at 21 cents. Did you return the buyers anything on that?

Mr. FRANKLIN. No.

Mr. JONES. Did you rerefine that 5,000 tons?

Mr. FRANKLIN. We rerefined a portion of it; yes.

Let me clear that up for you. There was only delivered under those original contracts—that 5,000 tons that you are talking about—as Argentine sugar, about 2,652,000 pounds. Against those same contracts were delivered American refined sugar, this rerefined sugar, at that same price, because those people preferred it, amounting to 2,470,000 pounds. That means that of the original 5,000 tons you are now talking about there was delivered on those contracts approximately 2,700 tons. Now, as I have told you, there is left, which we are trying to clear up, contracts which run into about \$430,000. Do you follow me in that statement?

Mr. JONES. I think I understand. What did you do with the other 23,000 tons?

Mr. FRANKLIN. That was rerefined and sold in order to return this approximate price which we have given here, and the people to whom it was sold were notified that it was going to be sold for their account at that price.

Mr. JONES. This 2,700 tons that you actually sold was sold at 21 cents, was it not?

Mr. FRANKLIN. Sold at 21.30, less 2 per cent.

Mr. JONES. Now, no one of those purchasers got a credit rebate, did they?

Mr. FRANKLIN. No.

Mr. JONES. You sold at 21.30?

Mr. FRANKLIN. That is right.

Mr. JONES. And at the highest estimate you have made that sugar cost you 19.43—taking your figure for the highest estimate you made?

Mr. FRANKLIN. That is right.

Mr. JONES. Now, on none of this sugar that was sold was there a credit rebate given the purchaser?

Mr. FRANKLIN. No.

Mr. JONES. I believe you said that in getting at the 21 cents per pound the Government and you had gotten together and estimated what the total cost would be?

Mr. FRANKLIN. That is right, sir.

Mr. JONES. And then the balance was left to you people—all the details of working it out?

Mr. FRANKLIN. Well, there was no question, Mr. Jones, but what the whole transaction was going to be submitted to them and checked up by them.

Mr. JONES. How did you arrive at the 21.30 cents?

Mr. FRANKLIN. By taking into account all the charges which we estimated.

Mr. JONES. Now, you took that up with the Department of Justice and figured those estimated charges, did you not?

Mr. FRANKLIN. Absolutely.

Mr. JONES. You knew just what the specific charges that you have read would be at that time, did you not?

Mr. FRANKLIN. No, sir.

Mr. JONES. You knew what the ocean freights would be?

Mr. FRANKLIN. Yes; but you must appreciate that there are lots of things, like demurrage on lighters, loss of weight, and all such things that you can not estimate.

Mr. JONES. But the demurrage is a small item when figured on a large quantity of sugar?

Mr. FRANKLIN. Comparatively; but it all amounts up.

Mr. JONES. The ocean freight rates, the insurance, and the duty, which were the large items, were well understood.

Mr. FRANKLIN. All well understood.

Mr. JONES. And these other items were small items?

Mr. FRANKLIN. Yes.

Mr. JONES. Now, you estimated all those things, and the Government gave you permission to sell at 21 cents per pound. Now, the Government largely accepted your figures in permitting you to sell at 21.30 cents, did they not?

Mr. FRANKLIN. Yes; I think there is no question about that.

Mr. JONES. Now, under any of your transactions that you had with the Government in other matters, did you return to the purchaser any money, or were you required to return to the purchaser any money where articles were sold at a larger figure than the cost would justify, or did you have any other such contracts?

Mr. FRANKLIN. We had no other such contracts.

Mr. JONES. This was the only contract of the kind that you had?

Mr. FRANKLIN. Yes, sir.

Mr. JONES. Now, you say you have 13,000 and some odd tons of sugar on hand now?

Mr. FRANKLIN. Not a pound.

Mr. JONES. Yes; I believe you said you sold all this. But I mean at the time the sugar was disposed of finally—the last of it—what amount did you have on hand? In other words, what amount did you have on hand, in actual tons, after you had sold your 5,000 tons?

Mr. FRANKLIN. We had about 8,000 tons, or something like that.

Mr. JONES. Something over 8,000 tons you had on hand?

Mr. FRANKLIN. Yes.

Mr. JONES. I believe you said a copy of the contract that you referred to was put into the record?

Mr. FRANKLIN. Yes, sir.

Mr. JONES. Whom did you have your negotiations with in the department when you estimated the cost of the various things?

Mr. FRANKLIN. Mr. Figg.

Mr. JONES. He was the man with whom you had the estimates and agreed upon the terms and the charges to the purchaser?

Mr. FRANKLIN. There was, I think, a representative of the State Department there at the time, but I am not positive about that. Mr. Figg was the man who worked this out.

Mr. JACOWAY. Who was Mr. Figg?

Mr. FRANKLIN. Mr. Figg was an Assistant Attorney General of the United States.

Mr. KINCHELOE. You say you sold the balance of this sugar; who received the money for that?

Mr. FRANKLIN. We received the money for that.

Mr. KINCHELOE. And now you figure they owe you between two and two and a half million dollars, including—does that include the money you have already received?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. They owe you that in addition to what you have already received for the last sales?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. When did you sell that last?

Mr. FRANKLIN. I am not quite sure about the dates, but I think in August or September of this past year.

Mr. KINCHELOE. What was your original claim?

Mr. FRANKLIN. I think the original figure that I gave here was \$1,900,000, as I remember it. I think that was what Judge Glasgow said at the same time.

Mr. KINCHELOE. How much money did you receive for this sugar that you sold in September last, or about September?

Mr. FRANKLIN. I can not tell you that.

Mr. KINCHELOE. Are you crediting that?

Mr. FRANKLIN. Absolutely; yes.

Mr. KINCHELOE. You are crediting that on what you originally claimed that the Government owed you?

Mr. FRANKLIN. Absolutely. That is all included in this price we have been working on here, Mr. Kincheloe.

Mr. TINCHER. As to this so-called contract, I think we had a pretty clear understanding of that before, but I do not think the record is in very good shape on it.

At the time of this transaction the Government was controlling the price of sugar? That is, the Department of Justice was enforcing the Lever Act, and all the sugar dealers were under a license system? As I remember, it was testified before that they had all had a permit or contract, or whatever you call it, to sell at the same price?

Mr. FRANKLIN. That is quite right.

Mr. TINCHER. And this was not any different from any one else's that was selling sugar in the United States?

Mr. FRANKLIN. I told you, when Mr. Jones asked me that question, that we did not have to have a license to import this sugar?

Mr. TINCHER. But to sell it?

Mr. FRANKLIN. Howell & Co. sold it under their regular license that they had.

Mr. TINCHER. And that was not any different from the license that every other sugar dealer in the United States had?

Mr. FRANKLIN. Not that I know of.

Mr. TINCHER. There was no discrimination in your favor or against you?

Mr. FRANKLIN. Not that I know of.

Mr. TINCHER. Don't you recall that that came out in the hearings here on the part of somebody in the Government, who explained that the regulations were exactly the same as to you as they were for everybody else?

Mr. FRANKLIN. I think they explained that the sugar was sold under the same regulations as the other dealers had.

Mr. TINCHER. Exactly the same regulations as to price—

Mr. FRANKLIN. Oh, no.

Mr. TINCHER. Well, if I am wrong about that I want to know it.

Mr. FRANKLIN. You remember, Mr. Tinch, you asked me about the importation of the sugar and the question of what profit there was on that. I tried to clear that up for you the last time, and told you that importers were making profits, as Mr. Figg and the others all testified to, very much higher than 1 cent a pound. Those transactions were different.

Mr. TINCHER. They required no license?

Mr. FRANKLIN. No; and the license under which this sugar was sold here in the United States, as I understand it, was the same license under which Howell & Co. sold other sugar throughout the country.

Mr. TINCHER. So this direction to Howell & Co. was applied to all the sugar that was sold?

Mr. FRANKLIN. No, sir; not at all.

Mr. KINCHELOE. That is, when you were getting 21 cents a pound for this sugar, were other sugar dealers getting any more or less than that?

Mr. FRANKLIN. Oh, they were getting up to 28 and 30 cents, depending upon the price prevailing in the market.

Mr. KINCHELOE. Was that under the regulation of the sugar board?

Mr. FRANKLIN. Why, I suppose there is no question about that.

Mr. TINCHER. The Attorney General, after the work of the Sugar Equalization Board was turned over to him by the President, fixed the price of sugar. He told the Louisiana sugar growers what they could charge for sugar—that is, the wholesale price—and he told the beet sugar growers what they could charge, and they issued certain bulletins and letters and directions concerning that from the Department of Justice, and the people that sold this sugar in the United States, or were supposed to sell it, operated under the same license, the same form of contract exactly, that all the others were operating under? Is not that true?

Mr. FRANKLIN. No, sir.

Mr. TINCHER. That was my recollection of this testimony by the Department of Justice.

Mr. FRANKLIN. Mr. Tinch, let me answer that question. They sold the sugar under the same license, but not under the same contract. The contract that they sold this sugar under was the particular contract which was approved by the Department of Justice for this particular sugar, and, so far as I know, no other sugar was ever sold under that same kind of a contract.

Mr. KINCHELOE. Who fixed those regulations as to the price of sugar?

Mr. FRANKLIN. The Department of Justice.

Mr. KINCHELOE. That 21 cents a pound sugar you are talking about now?

Mr. FRANKLIN. Yes, sir.

Mr. KINCHELOE. They did that then for the purpose of breaking the market?

Mr. FRANKLIN. Absolutely.

Mr. JONES. There is one other question I wanted to ask. In this exhibit here, Exhibit 9, there is no reference made to any agreement to sell sugar at 1 cent per pound profit. Where is that? In what form did you have the agreement that the sugar should be sold at 1 cent per pound profit?

Mr. FRANKLIN. That was a verbal agreement at the meeting, as I testified, I think, about the end of May, which was later confirmed in writing by Mr. Figg.

Mr. JONES. All that this contract that you refer to says is this:

"Should various estimated charges used in arriving at the above prices prove less than expected, credit voucher for the difference will be rendered buyer."

That does not require the return in the event you make more than 1 cent per pound?

Mr. FRANKLIN. Absolutely.

Mr. JONES. It only requires the return in the event your estimated charges are less than your figure?

Mr. FRANKLIN. No, Mr. Jones; that contract required us to return, and the agreement with the Department of Justice required us to return—

Mr. JONES. I can not see this contract that way.

Mr. FRANKLIN. The agreement that we had with the Department of Justice was that the Howell Co. should receive 1 cent and that the American Trading Co. should receive 1 cent.

Mr. JONES. That is, 21.30 cents?

Mr. FRANKLIN. That was the understanding at the meeting at the end of May, and that was agreed upon. Now, if you will look at that contract that

you have there, that contract came out, as I rember it, some time around the first part of July, so that it followed considerably after the agreement which we had and was intended to cover our final estimated figures; and anything that should be obtained over 1 cent, regardless of how it was obtained, either in regard to that price or any other price, should be refunded to the purchasers.

Mr. JONES. But this was the form in which it was reduced to writing, and this contract does not require that you return to the purchaser anything that you make over the 1 cent per pound.

Mr. FRANKLIN. No, Mr. Jones; that was not a contract between the Department of Justice and its agents, but a contract which Howell & Co. gave to the purchasers, and therefore it did not stipulate what the agreement was between the Government and its agents.

Mr. JONES. I know; but when I asked you the question awhile ago about your obligation to return to the purchasers the money you made over 1 cent a pound, you referred me to this Exhibit 9. I am calling your attention to the fact that that does not obligate you to return any money in the event you make more than 1 cent per pound. It does not even obligate you to return the money if you make 3 cents per pound or any other definite or specified amount.

Mr. FRANKLIN. I say that as I understand it, that contract requires the Howell Co. to return to the purchaser of the sugar anything over the price they finally found as the actual cost plus 2 cents.

Mr. JONES. Here is the only thing I find, after reading it rather hurriedly:

"Should various estimated charges used in arriving at the above prices prove less than expected, credit voucher for the difference will be rendered buyer."

Now, if your charges went ahead in the same form and were not reduced, even though you made 3 or 4 or 5 cents per pound, you would not be obligated under that statement to return that sum?

Mr. FRANKLIN. I understand that under that contract we would be obligated to return that to the purchasers, but I still go back to the agreement we had with the Department of Justice, which was separate from this particular thing you are talking about, which was later mentioned by Mr. Figg in his letters to the President.

Mr. JONES. It was a verbal agreement?

Mr. FRANKLIN. At the time it took place; yes.

The CHAIRMAN. Mr. Jones, it is after 12 o'clock. Do you desire to go on to-morrow?

Mr. FRANKLIN. I do not know whether it is in order or not, Mr. Jones, but I should be glad to go over that with you individually and try to explain it to you.

The CHAIRMAN. You have a detailed statement there. Do you care to file that in the record?

Mr. FRANKLIN. I have not anything but a lot of memoranda, Mr. Chairman.

The CHAIRMAN. Would you care to put in the record a detailed statement of that?

Mr. FRANKLIN. I can do so perfectly well, if you think it is necessary. We never have thought it necessary, for the reason that the whole thing is going to be turned over to the sugar board and audited anyhow.

Mr. JONES. I do not care to ask anything further. I will let it go at that.

Mr. JACOWAY. Mr. Chairman, you were asking some questions a while ago that I was very much interested in, because you were trying to reach a definite point. As chairman of this committee, who will have to make the report, do you feel that the witness has clarified these things that were troubling you?

The CHAIRMAN. Oh, I think so. I was simply suggesting that he might submit an itemized statement that would clarify it further.

Mr. FRANKLIN. I can do that, sir.

(Thereupon, at 12.20 o'clock p. m., on motion duly made and seconded, the committee adjourned, to meet at 10 o'clock a. m., Friday, January 20, 1922.)

(The following occurred on January 20, during the hearing on the De Ronde sugar matter:)

The CHAIRMAN. Are there any other witnesses to be heard?

Mr. WARD. Mr. Chairman, I believe Mr. Franklin wants to submit a statement.

Mr. FRANKLIN. Mr. Chairman, I simply want to put in the statement you asked for yesterday afternoon, and to say that the figures in connection with the Buenos Aires office have been audited by Haskins & Sells, certified accountants, and are being reaudited with our general books there now by Price, Waterhouse & Co., both of which audits will be turned over to the Sugar Equalization Board.

This is the statement I refer to and is all I have to submit now.
(The statement referred to follows:)

JANUARY 1, 1922.

Account of 13,902 tons Argentine sugar bought in May, 1920, under the direction of Department of Justice, United States of America.

	Cost.	Equivalent per pound.
13,902 tons of 1,000 kilos (2,204 pounds), 30,648,349 pounds, cost, inland shipping, storage, insurance, loading, demurrage, finance, etc., total f. a. s. Buenos Aires (not including interest).....	\$4,354,305	Cents. 14.20
Export duty in the Argentine.....	538,609	1.78
Total f. o. b. charges, Buenos Aires.....	4,892,914	15.98
Ocean freight and insurance.....	205,238	.67
New York charges, including storage, insurance, lighterage, demurrage, rebagging, cables, and other miscellaneous charges.....	127,807	.42
United States duties.....	396,712	1.29
Total cost in warehouse, New York.....	5,622,671	18.34
Rerefining charges on 22,352,692 pounds at 1.50 cents, or as an average on the whole transaction 1.09 cents.....	335,290	1.09
Total cost (not including interest).....	5,957,961	19.43
Total amount realized from sales, settlements of contracts, insurance, including commission, etc.....	3,480,327	11.36
Maximum loss.....	2,477,634	8.07
Insurance claims, etc., estimated may realize.....	\$25,078	
Claims against unfilled Argentine sugar contracts, net (collection uncertain) on original sales.....	433,194	
	458,272	1.49
Minimum loss.....	2,019,362	6.58

NOTE.—All figures averaged over the entire transaction of 30,648,349 pounds.

Mr. WARD. Mr. Chairman, I want to request that the hearings on my resolution be continued on February 3 next, which will give every member ample time to look over the documents we get from the State Department.

Mr. PURNELL. That is perfectly satisfactory to me.

Mr. ASWELL. Mr. Chairman, I would like to offer an amendment that if the hearings on the De Ronde claim are not completed at that time, that they follow the hearings on Mr. Ward's resolution, as has been agreed to before.

The CHAIRMAN. How long will it take you, Mr. De Ronde?

Mr. DE RONDE. I do not know.

The CHAIRMAN. How many witnesses have you?

Mr. DE RONDE. There is only myself present.

Mr. WARD. Mr. De Ronde would not have any objection to giving way for about half an hour in order to finish my resolution at that time.

Mr. DE RONDE. Not at all.

Mr. KINCHELOE. Then it is understood that these hearings are set for the 3d, and if we do not get through with Mr. De Ronde before that time, then he is to follow.

The CHAIRMAN. Yes.

(The motion, having been duly seconded, prevailed.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Friday, February 3, 1922.

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

There were present: Mr. Haugen, Mr. McLaughlin of Michigan, Mr. Ward, Mr. Purnell, Mr. McLaughlin of Nebraska, Mr. Riddick, Mr. Williams, Mr. Sinclair, Mr. Thompson, Mr. Clague, Mr. Clarke, Mr. Jacoway, Mr. Rainey, Mr. Aswell, Mr. Kincheloe, Mr. Jones, and Mr. Ten Eyck.

The CHAIRMAN. The committee has met this morning to give further consideration to the resolution introduced by Mr. Ward, and I presume the first thing in order is the report of the subcommittee which was appointed at a previous meeting of the committee.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, the subcommittee is not able to report, as we expected to be able to do. We were promised copies of all the papers to be at my office by 10 o'clock this morning. I have waited until this time and they have not been received. I drafted this report with the idea that the papers would be in our hands, and it is so stated in the report. I can tell you what we have done. This report is addressed to the chairman of the committee as follows:

FEBRUARY 3, 1922.

Hon. G. N. HAUGEN,

Chairman Committee on Agriculture, Washington, D. C.

MY DEAR SIR: The Committee on Agriculture, at a meeting held January 18 ultimo, provided for the appointment of a subcommittee for the purpose of asking the Secretary of State to make and deliver to the committee a copy of each and every paper in his office relating to the claim of the American Trading Co. and B. H. Howell & Son Co., as set forth in resolution 78, now pending before this committee; that said subcommittee on the 19th day of January last, in pursuance of instructions, called at the State Department and received the promise of officials thereof in charge of papers relating to the above claim that, as soon as possible, copies of said papers would be made and delivered to your subcommittee; that after the lapse of several days the subcommittee learned by inquiry at the State Department that it had been determined by its officials that because of lack of clerical help the work of making copies of said papers could not be done, the officials of said department making the suggestion that the subcommittee itself look over said papers, indicate those which, in its opinion, have a bearing on above claim, and that copies of papers so designated would be made and furnished; that, in compliance with the suggestion of the department, two members of the subcommittee, Mr. Jacoway and Mr. McLaughlin of Michigan, with another member of the Committee on Agriculture Mr. Ward, made a careful inspection of all the papers in the department relating to said claim, selected all that related in any way thereto, and copies thereof made by the Department of State are submitted herewith; that at the request of the subcommittee, Hon. Henry P. Fletcher, Undersecretary of State has written a letter, herewith submitted, to the effect that he has placed in the hands of the subcommittee all papers relating in any way to said claim, and that copies of all papers relating to the case would be made as soon as possible.

Your subcommittee reports further that, owing to his absence from the city of Washington, Mr. Tincher, a member of said subcommittee, was not present with other members thereof when examination of papers relating to the above claim was made.

J. C. McLAUGHLIN.
H. M. JACOWAY.

I expected when I dictated this that the papers would be in my office, but they have not come.

Mr. CLARKE. Mr. McLaughlin, in those papers did you find anything that was particularly pertinent or any new information, in your judgment?

Mr. McLAUGHLIN of Michigan. Just a moment as to that, Mr. Clarke. The subcommittee conceived it to be its duty only to get copies of these papers and not to make any report as to the contents of the papers or their bearing on this claim, leaving that matter entirely to the committee. If the question that you ask comes up before the committee, as one of the committee, I shall be please to answer it.

Mr. ASWELL. Are there many papers?

Mr. McLAUGHLIN of Michigan. No, not very many, and I do not see why in the world the State Department did not make the copies in the first instance. They had quite a stack of them, but when we came to look them over we found four, and sometimes five, copies of one paper, making altogether quite a large bundle; but when we selected those that related in any way to this case, there were very few.

Mr. PURNELL. Did you make any memorandum for your own information?

Mr. McLAUGHLIN of Michigan. No.

Mr. PURNELL. Have you in mind the contents of these various documents that might be pertinent to the matter before the committee? If you have, I was going to ask unanimous consent that, in the absence of the committee themselves, Mr. McLaughlin of Michigan be asked to give the committee the benefit of any information he received and any impressions he got from the papers. As far as I am concerned, I am perfectly willing to abide by the statements of the members of the subcommittee in the absence of the papers.

Mr. WARD. I would like to say that the motion that was made and carried was submitted by me, and, as I remember, was to the effect that this subcommittee be appointed, and that they go to the State Department, look at the papers, and report back to the committee as soon as possible, and the date was set as February 3. So I do not see why, in compliance with that motion, which was made and adopted by the committee, the subcommittee should not report what they found out.

Mr. TEN EYCK. Has the subcommittee inquired this morning by telephone as to why the papers have not appeared?

Mr. McLAUGHLIN of Michigan. I talked by telephone late last evening with a Mr. MacEachran. I do not know what his title is, but it is my impression he is an assistant secretary, and he said that the copying of the papers was proceeding as rapidly as possible, and they would be ready for delivery at my office at 10 o'clock this morning. Waiting for those papers made me late at this meeting. The papers will be brought up here as soon as they come in.

Mr. RAINEY. If it is agreeable to Mr. McLaughlin, I am in favor of his making a verbal report.

Mr. RIDDICK. We should also hear from Mr. Jacoway, who was another member of the subcommittee.

Mr. PURNELL. I make a motion that we proceed with the verbal statements of the gentlemen who compose the subcommittee, to be followed later by an examination of the papers, if that seems necessary.

(The motion, being duly seconded, prevailed.)

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I dislike very much to make that statement, because while there is very little, in my judgment, in the papers that would lead to a different conclusion, different from the one I have formed myself, there are some things in the papers that some members of this committee might think had a bearing in the other direction. As you know, a number of the papers have already been submitted to this committee. They have been printed in the statement made and submitted by Mr. Franklin. They have been offered in other ways and have been printed in the hearings. This committee is familiar with them. Some of the copies we will receive from the State Department are the same as those we now have. There are others that we will receive that we have not had before. The committee will remember that when this subcommittee was appointed it was suggested that one member, at least, be one who had expressed himself as favorable to this claim and one who had expressed himself as unfavorable, and the other as might be named by the chairman of this committee. I was one who had expressed myself as favorable to the claim, and I will say to you, gentlemen, that after a careful examination of all the papers my opinion as to the validity of this claim has been strengthened, and I am of the opinion that the claim is good and that the resolution ought to be favorably reported.

I find among the papers statements frequently made by the Department of State that these companies are acting as the purchasing agents of the Department of Justice and the Government of the United States.

There is one paper there that quotes Mr. Figg, who at that time was an Assistant Attorney General and had charge of this matter in the Department of Justice. It appears that it was an interview with Mr. Figg, published in one of the newspapers in the United States and republished in one of the newspapers in Buenos Aires, to the effect that the Government of the United

States was not itself buying this sugar, and that the sugar was not the property of the Government of the United States, and that the American Trading Co. was simply acting for, well—we did not see the interview itself, but a reference was made to it.

Mr. WARD. It was a newspaper article.

Mr. McLAUGHLIN of Michigan. Yes; it was a newspaper article to the effect, as I say, that it was not the Government of the United States that was making the purchases. That newspaper article, as I say, was republished in Buenos Aires, and caused quite a commotion, because the Government of Argentina had been led to believe that this purchase was being made by the United States itself, and that conditions by the Argentine Government had been made to our Government, and the charge was made in Argentina that the Government of the United States had not been acting entirely in good faith in the matter. There later appeared something from Mr. Figg, in which he qualifies his original statement, and there are statements in the letters written by the State Department, following the publication of that interview, all to the effect that it was an unfortunate and incorrect statement by Mr. Figg, and that this trading company was acting merely as the purchasing agent of the Government. One of the communications of the State Department uses those very words, that the American Trading Co. was acting merely as the purchasing agent for the Government of the United States.

Mr. TEN EYCK. Was that in answer to this newspaper article?

Mr. McLAUGHLIN of Michigan. Yes; those statements followed the publication of the newspaper article.

Mr. PURNELL. Was there any statement from Figg retracting in any particular the newspaper article among any documents in the files of the State Department?

Mr. McLAUGHLIN of Michigan. Mr. Figg's statement in full, following his first interview, is not published, and it is not set out in the papers in the department, but there are references to it, indicating that Mr. Figg himself qualified his statement, and there are statements by the State Department qualifying Mr. Figg's statement, and putting another light on the actual situation, as the State Department understood it.

Mr. PURNELL. Have you any reason to believe that you were not given an opportunity to see all the papers in connection with the matter?

Mr. McLAUGHLIN of Michigan. I have no reason to believe that any papers were withheld from our subcommittee. There are papers there, and I think we indicated that we wished copies of them, from other companies written some considerable time after this transaction, requesting the Government to assume responsibility for some of their transactions, and to bear some of their losses, and there are replies to the effect that the Government had nothing to do with those other claims, or with these other transactions, and that the only company that they had any dealings with which in any way obligated the Government of the United States was the American Trading Co. That appears by letters written by the State Department in reply to communications from other companies asking that something be done in their behalf. Mr. Jacoway, have I stated that correctly?

Mr. JACOWAY. Yes, sir.

Mr. PURNELL. Over whose signature were the statements to the effect that the American Trading Co. was the only company that had conducted negotiations for and on behalf of the Government?

Mr. McLAUGHLIN of Michigan. I do not remember the signatures. The letters were written by the State Department, and, in fact, there were several signatures. I do not remember that Mr. Colby himself, who was Secretary of State then, made such a statement, because there were a number of papers and a number of different signatures, depending on who was acting at the time in the office of the Secretary of State. There was a Mr. Davis, who seems to have taken Mr. Colby's place when he was not there, and there was somebody else—I do not remember his name, Mr. Jacoway—who wrote letters in the absence of those above him. Do you remember his name?

Mr. JACOWAY. During the Colby administration?

Mr. McLAUGHLIN of Michigan. Yes.

Mr. JACOWAY. The representative of the American Government in Buenos Aires, Mr. Stimpson, and a man by the name of Harris, as I recall.

Mr. PURNELL. What was the occasion for writing the letters denying that any other company had anything to do with the transaction and setting out the claims of the American Trading Co.?

Mr. McLAUGHLIN of Michigan. They were letters written in answer to letters received from these other companies.

Mr. WILLIAMS. What was the date of those letters?

Mr. McLAUGHLIN of Michigan. They were subsequent to this entire transaction.

Mr. KINCHELOE. Was that subsequent to the interview of Mr. Figg or the alleged interview in the paper?

Mr. McLAUGHLIN of Michigan. I do not remember the date of Mr. Figg's interview. We did not see the interview. There was a reference to it in correspondence between the two Governments following the publication of that interview or the comments on it by the Argentine papers.

Mr. JACOWAY. Mr. McLaughlin, we saw the interview, but we could not read it, because it was in Spanish, which corroborates your statement.

Mr. PURNELL. How do you know it was an interview?

Mr. JACOWAY. A man down there said it was.

Mr. McLAUGHLIN of Michigan. There was a newspaper clipping printed in Spanish and taken from one of the Buenos Aires papers. It was pasted on another paper or another writing like this. Following that there was a translation, but it was not a translation of Figg's interview. I read that very carefully, and while it related to this matter it did not relate to Mr. Figg's interview.

Mr. JACOWAY. As I understood it, the Figg interview was printed in the Buenos Aires paper in Spanish.

Mr. McLAUGHLIN of Michigan. Yes; but it was not the interview that was cut out of the newspaper and pasted on this sheet of paper, at least the translation of it was not a translation of the article referring to the Figg interview.

Mr. PURNELL. Following the interview which appeared in the Buenos Aires papers, did the Government of Argentina take the matter up with the Government of the United States officially to find out whether or not the American Trading Co. was acting for the Government? Did that bring about any official correspondence between the two Governments?

Mr. McLAUGHLIN of Michigan. Yes; there were reports and there was a letter, too, by some official in Argentina relating to the matter, and there were communications from a Mr. Stimpson, who represented our Government in Argentina, calling the attention of the State Department to the fact that the Argentine Government was displeased and disappointed to learn that the Government of the United States itself was not acting.

Mr. PURNELL. And then following that—

Mr. McLAUGHLIN of Michigan. And following that there were statements from the State Department correcting that.

Mr. PURNELL. And stating officially that the American Trading Co. did represent the Government?

Mr. McLAUGHLIN of Michigan. Represented the Government.

Mr. PURNELL. Do you know who made that statement on behalf of the Government?

Mr. McLAUGHLIN of Michigan. Those letters were not as direct on that point as I would like to have seen, either pro or con. We were not looking for any particular thing. We were looking at the whole proposition; but they were not as direct and positive as we would like to have had them, but there were some pretty strong statements, and the statement was made in one of the communications from our State Department, in these very words, that this trading company was merely the purchasing agent for the Government of the United States.

Mr. KINCHELOE. If I understand you, Mr. McLaughlin, your committee, then, was unable to get even the contents of the Figg interview?

Mr. McLAUGHLIN of Michigan. That is right. We were unable to get even the contents of the Figg interview.

Mr. WARD. That Figg interview had nothing to do with the State Department, but was a newspaper article and was not in any way an official document having any connection with this transaction, any more than if you were to give out a interview to a newspaper that would have nothing to do with what you might say on the floor of the House.

Mr. KINCHELOE. The reason I asked the question was in view of the fact that Mr. Figg negotiated this proposition for and on behalf of the Department of Justice, and I was just wondering what was in that interview he gave.

Mr. WARD. That interview is printed in the papers in Spanish.

Mr. JONES. Was there not some Spanish student in the State Department who could translate that?

Mr. WARD. But even if they did, I do not think that would have any bearing on whether the American Trading Co. was an agent of the United States Government or not.

Mr. McLAUGHLIN of Michigan. When we were looking over those papers—

Mr. WARD (interposing). That newspaper article would not be anything that was official.

Mr. McLAUGHLIN of Michigan. When we were examining the papers and our attention was attracted to this interview of Mr. Figg's we found a paper there with a double column, two-thirds the length of this sheet [indicating], had been cut out of the Buenos Aires newspaper and pasted right on a sheet of paper like this [indicating]. Of course, it was in Spanish and we could not read it. We thought that that was the comment of the Buenos Aires newspaper on Figg's interview. Then followed in typewriting what we thought was a copy of the newspaper article, that was pasted on there, and then followed a translation that we thought when we looked at it would be a translation of the newspaper article commenting on the Figg interview. My recollection is that that translation of that newspaper article did not relate to the Figg interview. It related to some action of their Government and some proceedings in their Congress. I may be wrong about that, and that is why I regret very much the papers are not here.

Mr. WARD. I think if the State Department had thought that the newspaper article carried any weight they would have had a translation of the article.

Mr. TEN EYCK. Do you believe, Mr. McLaughlin, that the denial of the Secretary of State as regards the Figg interview or the newspaper article corroborates the testimony here that the American Trading Co. was the physical agent of the Government in purchasing this sugar?

Mr. McLAUGHLIN of Michigan. That is the general impression I gained from reading all the papers.

Mr. CLARKE. What is your impression, Mr. Jacoway?

Mr. JACOWAY. The same.

Mr. McLAUGHLIN of Michigan. I might say that there was a lot of it that was indefinite and more or less indistinct, and we could not get very well the bearing on the proposition, but the statement is frequently used that the American Trading Co. was the purchasing agent either for the Government or for the Department of Justice, and there is a statement to the effect that the American Trading Co. was merely the purchasing agent for this Government; but as I say, there are statements in some of those papers that might bear another construction and might have a bearing on the other side of the case, and I wish the members might have those papers so that they could read them themselves.

Mr. JONES. Was this interview one of the papers that the committee asked to have sent up here?

Mr. McLAUGHLIN of Michigan. We were not able to get that Figg interview.

Mr. JONES. I mean the one in Spanish. Was that asked to be sent up here?

Mr. McLAUGHLIN of Michigan. I think so.

Mr. WARD. We assume that it has some bearing on the sugar transaction, but as it is in Spanish, we do not know what it is about.

Mr. JONES. If it is sent up here, I can find some one who can translate it.

Mr. WARD. It must have some bearing on the case or it would not have been in those papers.

Mr. RAINEY. Mr. Jacoway, can you add any light to the very clear statement made by Mr. McLaughlin?

Mr. JACOWAY. Mr. Chairman and gentlemen of the committee, I do not know that I can add anything to the statement made by Mr. McLaughlin. If I were presenting the matter this morning to a court or to a jury, I would say that assuming that the executive officials of the office of the Attorney General had a right to contract, or had the right to establish the relationship of agent between that department and individuals of the Government, I would say to the committee that, in my judgment, the papers we found in the State Department, supplemented and complemented with the testimony before this committee, show, to my mind at least, that it was the intention of the office of the Attorney General, through its executive heads, to appoint B. H. Howell & Co. and the American Trading Co. its purchasing agents and also its agents for the distribution of this sugar. At that particular time, as I gather from the testimony, the prices of sugar were soaring sky-high in the United States. As I read the testimony, there was a compelling desire on the part of the office of

the Attorney General to break the high price of sugar, so that as a result of that endeavor or action the American people would be the beneficiaries. As I construe the testimony, reporting further to this committee, I would say that that object had been reached.

It is the testimony of those who are familiar in detail with the entire history or are acquainted with the record in this case that the American people were the beneficiaries in the low price they had to pay for sugar in an amount, as one witness testified, around \$1,000,000,000.

Reporting further and attempting to employ language that will absolutely reflect the clean, clear-cut facts and reduce my remarks to a bare and leafless pole, I think all the testimony bearing upon this case is probably in the record. I would say that it is in the record, as I view it, and as I recall it, and as I remember it, save and except the testimony in the form of a letter, written as I recall by some official in the State Department, and reading the language of that letter alone and unsupported would leave in the mind of the reader of that letter that probably the writer of that letter left the impression, inferentially if not directly, that B. H. Howell & Co. and the American Trading Co. probably were not the agents of the office of the Attorney General. Now, I say that that letter, read by itself, unsupported and unexplained, would probably cause a casual or an intense reader of that letter to draw the conclusion, probably, that I have mentioned, but offsetting that particular letter and arraying the facts as disclosed by the records that would contravene or traverse that statement are a number of letters from the office of the Attorney General and of the State Department to this effect: That B. H. Howell & Co. and the American Trading Co. have been constituted the agents of the Federal Government to buy this sugar, to bring it to this country, to distribute it among the users in order that the American people might get sugar at a reduced cost, or, in other words, break the market. Now, that is one thing that we found in the records that probably is not in the hearings of the committee.

The other thing we found in the records, so far as I am informed, that has not been brought to the attention of this committee is the purported interview, written in Spanish, by Mr. Figg, who is known to the committee. In that interview some official representative, as I now recall it, of the Buenos Aires Government got the impression that B. H. Howell & Co. and the American Trading Co. were being assisted by the officials of this Government on their individual account and not as agents of the office of the Attorney General.

The testimony I think further discloses peradventure, and I think when you read it you will be irresistibly driven to the conclusion that that was not the intention of Mr. Figg, and that at a later date, as I recall, the first opportunity, he took occasion to correct the erroneous impression that had been created in the minds of the officials connected with the Buenos Aires Government.

Following that up, also, Mr. Stimpson, as I now recall, took occasion as an official of the Government, and representing this Government at Buenos Aires, to correct that statement, and it was corrected, as I now recall, Mr. McLaughlin, in a letter written by him.

Mr. WARD. In a cablegram.

Mr. JACOWAY. So, boiling my remarks down as much as possible, the only pieces of testimony are these two pieces of testimony which I have just mentioned that are not in the record which, in my judgment, are fully explained by other corroborative evidence and by evidence coming from the same source.

I would say to the committee that, in my judgment, after hearing the testimony around this table here and examining the papers in the State Department—and Mr. Fletcher states it is the entire record—my judgment is that there is at least a high moral claim on the part of the Federal Government; and I will go further and say that under the construction of statutes as I understand their construction, great latitude having been given in the construction of statutes in the present day as opposed to their construction in the earlier days, when the courts held that in the construction of a statute you are bound entirely by the reading of the statute, I would say that this would fall—I would not say definitely and conclusively, but almost—within the category of a legal claim.

Mr. PURNELL. I wanted to ask you a moment ago whether you got the impression from the file that following the interview which was purported to have been made by Mr. Figg our Government made an effort to set at rest with the other Government the question of agency.

Mr. JACOWAY. They sought to set at rest this proposition to the extent that the interview of Mr. Figg was erroneous and the Department of State and

the Attorney General were cooperating with B. H. Howell & Co. and the American Trading Co. and with the Buenos Aires Government on the part of the Federal Government to procure this sugar at a low cost.

Mr. PURNELL. In other words, they took notice of the interview and sought an opportunity to correct it?

Mr. JACOWAY. Yes; as reflected in a letter written, as I now recall, by Mr. Stimpson, who was the legal representative of the American Government at Buenos Aires.

Mr. TEN EYCK. From your study of the papers down there and from the fact that this interview was given out, at least the Argentine Government up to that time considered that they were dealing direct with the United States rather than with any other agency as regards this particular sugar.

Mr. JACOWAY. Dealing with the Federal Government through B. H. Howell & Co., and the American Trading Co. as purchasing agents and as distributors.

Mr. TEN EYCK. And they took exception to the fact that it looked as if the Government had fooled them in that respect?

Mr. JACOWAY. I do not know that they took exception, but they took the opportunity to explain, as I recall, very promptly that such was the case.

Mr. JONES. Then, if that be true, it is very evident that this interview which Figg gave out was to the effect that they were not the purchasing agents.

Mr. JACOWAY. Either Mr. Figg gave out an erroneous interview or the man interviewing him translated his intention into language that is erroneous, just like is often done in interviews.

Mr. JONES. Erroneous or not, it was to the effect that they were not the purchasing agents. Either the interview or the interpretation of the interview was to the effect that—

Mr. JACOWAY (interposing). I would not say it was to the effect; I would say that that was the conclusion drawn, which, as Dr. Aswell suggests, Mr. Figg corrected.

Mr. RAINEY. If it was an interview given by Mr. Figg, and our State Department and the representatives of our Government tried to explain it away, their attitude would at least make our Government morally responsible for that claim.

Mr. JONES. It would as between this Government and that Government, but it would not necessarily bind them as between this Government and an individual.

Mr. TEN EYCK. Yes; but I do not think this Government would take the position with the Argentine Government that they were buying the sugar with the American Trading Co. as their agents, and then come back here and tell the American Trading Co. that they had misrepresented the case to the Argentine Government and they were not their agents. The United States would not take a dual position in a thing of this sort.

Mr. JONES. Governments do a number of things or there are a number of things done in diplomatic circles to avoid conflicts, and I would like to see the interview and the translation.

The CHAIRMAN. Mr. Jacoway, the Attorney General and Mr. Figg have stated to this committee exactly what the arrangements were.

Mr. JACOWAY. Yes.

The CHAIRMAN. Let me read to you what the Attorney General said:

"Mr. PURNELL. * * * Do you know whether there was any arrangement of any kind made whereby they were to be protected against any loss?

"The ATTORNEY GENERAL. No, sir."

I do not see how he could make his answer any plainer than that and that ought to settle it.

On page 95 we find in the testimony of Mr. Figg that he was asked this question:

"The CHAIRMAN. You claim to base your authority upon this act"—

Having reference to the Sugar Equalization Board act—

"Mr. Figg. I am not basing my authority on the act of the Sugar Equalization Board but upon the President's proclamation transferring the powers of the Food Administration.

"The CHAIRMAN. What authority did that proclamation give you to buy or sell or to guarantee any profits?

"Mr. Figg. We did not at any point have the power to guarantee against loss by that act.

"The CHAIRMAN. Did you have the power to buy?

"Mr. Figg. No; we did not; not as the Department of Justice.

"The CHAIRMAN. Then you agree with Mr. Palmer and Mr. Glasgow that there was no power granted anywhere to purchase or to guarantee against loss?"

"Mr. FIGG. I think that is probably true.

"The CHAIRMAN. Did the Government have any power to purchase or to guarantee against loss?"

"Mr. FIGG. I think not; no, sir."

I do not see how there could be any question about the arrangement entered into between the department and these people. Then on pages 96 and 97—

Mr. JONES. Mr. Chairman, are you referring to the hearings that were held last summer or the first hearings that were held?

The CHAIRMAN. These are the hearings held in January, 1921:

"The CHAIRMAN. Mr. Figg, you stated you had no intention of buying the sugar.

"Mr. FIGG. That is right."

That is the testimony and I do not think there can be any question about it.

Mr. ASWELL. What power did this Government have to have to refuse to permit them to resell the sugar in Argentina at a certain time?

The CHAIRMAN. I think the answer to that is given in the statement that it would embarrass the Government to buy the sugar and then sell it back to the Government down there at a profit.

Mr. JONES. They had obtained certain unusual concessions for this company, and of course they were not going to let them take advantage of them down there.

Mr. KINCHELOE. Mr. McLaughlin, may I ask you this question: Did you get the impression by reading this correspondence that the State Department limited their activities for and on behalf of the Government to the sugar transaction of Howell & Co. and the Trading Co. only?

Mr. McLAUGHLIN of Michigan. I will answer that in this way: I got the impression that the State Department considers the claim of the American Trading Co. and B. H. Howell Son & Co. in a class by itself, different from the transactions and the claims of any other company.

Mr. KINCHELOE. Did the correspondence make an impression upon you that the State Department, either directly or by innuendo, claimed that the Government was standing behind Howell & Co. and the Trading Co. only, and that they were the only people that the Government was standing behind in all these sugar purchases?

Mr. McLAUGHLIN of Michigan. There is nothing in the correspondence, as I remember it, to the effect that the Government was standing behind these companies or the American Trading Co. and B. H. Howell Son & Co.; nothing to the effect that they were standing behind them or to protect them against loss; but there were frequent statements of this kind, that the American Trading Co. is the purchasing agent for the Government of the United States.

Mr. KINCHELOE. Did you get the impression that the American Trading Co. was the only purchaser that the Government had for the Argentine sugar?

Mr. McLAUGHLIN of Michigan. That is my impression; yes. You understand, of course, this is correspondence with the State Department only.

Mr. KINCHELOE. Yes.

Mr. McLAUGHLIN of Michigan. We have not seen any of the files of the Department of Justice. If there is anything in those files I am entirely in ignorance of them, except as they have been presented to this committee. There is not any doubt in the world but that the State Department represented to the Argentine Government that these purchases by the American Trading Co. were made by and on behalf of our company. There is no doubt in the world that the Argentine Government understood that our Government itself was making these purchases because the concessions were granted to the Government, because the Government made the Argentine Government believe it was acting for itself; that is, that the American Government was acting for itself. There is correspondence, letters written by some officials of the Argentine Government, as to demands made by other governments than ours, like Chile and other governments, the names of which I do not now remember. But they had made requests at least somewhat similar to the request made by our Government, and the Buenos Aires Government had insisted that they must treat all Governments alike; that it would not do for them to grant concessions to the American Government and refuse the same concessions to Chile and other governments.

Mr. KINCHELOE. Do you think it is possible that Figg's interview might be found in the records of the Department of Justice?

Mr. McLAUGHLIN of Michigan. I do not know anything about that. We were asked to get the correspondence in the State Department. As I said at first, I dislike to give my impressions of those papers. I do not want anyone to be misled by them or by what I have said. The impression I gained is that they are indefinite and unsatisfactory. They are not nearly as pointed as I hoped to find them, and I admit that there are some statements in some of those papers which, read by Mr. Haugen and some others who have evidenced opposition to this resolution, might be given another construction. I was hoping that the papers might be here so that everyone could examine them himself, but at the request of the committee, and really against my wishes, I have expressed the impression I gained from these papers. I do not want anybody to be misled. I do not want to withhold anything. I wish you could all see the papers and draw your own conclusions, but you asked for mine and I have given them to you.

Mr. RIDDICK. You say there are letters from other sugar companies or from other people indicating that they wanted to be protected by the Government on sugar purchases. Were there many such requests?

Mr. McLAUGHLIN of Michigan. No; there were not many, and the replies of the State Department were very short and to the effect that the Government did not have anything to do with them.

Mr. ASWELL. That is, the Department of State did not have anything to do with them.

Mr. McLAUGHLIN of Michigan. Yes.

Mr. ASWELL. Because some other companies dealt directly with the Attorney General's office, and the matter did not go through the State Department because the sugar was bought delivered in New York.

Mr. McLAUGHLIN of Michigan. The State Department knew nothing about any other claim.

Mr. TEN EYCK. Mr. McLaughlin, in your study of these papers in the State Department did you come to any conclusion or was there any suggestion there that might lead to a conclusion that if this request had been made to the Argentine Government for an individual that the Argentine Government would have refused to have granted all these concessions for an individual corporation?

Mr. McLAUGHLIN of Michigan. I think that conclusion can be drawn, inasmuch as it clearly appears that the Argentine Government thought it was dealing directly with the Government of the United States and took exception to the situation when it learned of Mr. Figg's interview, which indicated that the Government was not itself directly interested but that these purchases were made by and on behalf and on the responsibility of a private company.

Mr. TEN EYCK. And immediately the United States Government took opportunity to deny that.

Mr. JONES. And did not deny it outright. That is the point he is making. They have made a vague sort of statement about it, as I gather, and I do not see why they did not deny it in so many words if there was no question about it, and say that we are the purchasers and then give that statement out.

Mr. McLAUGHLIN of Michigan. There is a statement, as I said, in one of the letters of the State Department to the effect that the American Trading Co. is acting merely as the agent of the Government of the United States.

Mr. JONES. But then they go ahead and leave it in a sort of nebulous condition.

Mr. McLAUGHLIN of Michigan. It is not as definite and straightforward as I hoped to find it.

Mr. TEN EYCK. But it appeared to be strong enough to continue their belief that the trading company was acting as the Government's agents; in other words, the Argentine Government accepted their explanation with that idea in view. Is that what you gained from the rest of the correspondence?

Mr. McLAUGHLIN of Michigan. Yes; I think so.

Mr. RIDDICK. Mr. Chairman, I think we have gotten the facts and have mulled over this matter until we have all made up our minds as to what we are going to do, and I suggest that we have a motion and settle this matter, because it is nearly 12 o'clock now.

Mr. WARD. I would like to submit a motion.

Mr. JONES. Mr. Chairman, if they are going to send up these papers it seems to me we might wait until they are received.

Mr. WARD. Those papers are accessible to any member of the committee at any time. Mr. Fletcher said that, and said that he had nothing to withhold and was willing to give everything he could to any of us at any time.

Mr. JONES. As I understand it, they will be sent up here to-day.

Mr. WARD. I submitted the motion for the appointment of this subcommittee to go down to the State Department and examine these papers, and there was not anything in the motion about bringing the papers here.

Mr. Chairman, I move that S. J. Res. 12, which is a similar Senate resolution to the House resolution which I introduced, and which has passed the Senate, be reported out of this committee, and that the committee authorize me to use every parliamentary means to bring about the passage of the resolution.

Mr. CLARKE. I second the motion.

The CHAIRMAN. What about the publishing of these letters? Will you leave that to the discretion of the subcommittee, after conferring with the department, as to what shall be printed in the record?

Mr. McLAUGHLIN of Michigan. Following our talk with Mr. Fletcher, the Undersecretary, I think we ought to refrain from publishing that correspondence until we submit it to him and have his approval for the publication of it.

Mr. PURNELL. I would like to ask you, Mr. Ward, if it is your intention that reasonable time shall be given to debate this matter on the floor?

Mr. WARD. Absolutely; the more it is debated the stronger the case gets.

Mr. PURNELL. I think I have had as much to do, perhaps, as any other Member in keeping it out of the House. I did so for the reason that I felt we had not received all the testimony or that there were facts we had not received. I do not want to continue to be a party to a plan to deprive anybody of money that the Government rightfully owes, and I am going to vote to report this bill to the House, with the understanding that ample time is to be given for debate, and in the meantime I am going to reserve the right to oppose it on the floor if I feel so disposed, but I think, as a member of this committee, I have gotten everything I am able to get and I think it is time we gave the membership of the House the right to hear it and determine it.

Mr. McLAUGHLIN of Nebraska. Like Mr. Purnell, I also have acted from time to time in such manner as to delay the consideration of this resolution by the House. I did so for the reason that it was represented, regularly, by some persons that there was something that was being held back; that there was something hazy, and if I might use the word, suspicious, about the transaction, and that later something would be disclosed. I wanted all the evidence and testimony in the record, and have taken an attitude of delay up to this time, but to my mind the efforts that have been made to bring in contrary testimony to the claims of the resolution have utterly failed. Nothing has been disclosed that would indicate that the transactions were not straightforward and above-board, and that these people were acting as the agents of the Government throughout, and having all the testimony in the record, having the opinion of two Attorneys General and two Secretaries of State, and those serving under them, to the effect that it is a moral obligation on the part of the Government, I can do nothing else than to vote for the reporting of the resolution, and unless something is disclosed to the contrary between now and the time it is considered by the House, I shall support it on the floor of the House.

The CHAIRMAN. I have no desire to delay the proceedings. I voted against the proposition before and signed the minority report, and I am not entirely clear in my mind that I would be justified in supporting the bill. I want to make the same reservation to vote against the bill and join in a minority report if one is made. I would also like to go over all the hearings and in as much as there seems to be some question as to the clearness of the correspondence in the State Department, I would like to go over it or at least part of it before I decided definitely what I shall do in the matter.

(The motion, having been duly seconded, prevailed.)

The CHAIRMAN. As I understand it, it is understood that reasonable time will be given in which to file a minority report, if that is desired.

Mr. KINCHELOE. Did not Mr. Tinscher include that in his request the other day?

Mr. WARD. Yes.

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